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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Extrajudicial, summary or arbitrary executions

Report of the Special Rapporteur, Mr. Bacre Waly Ndiaye, submitted pursuant to Commission on Human Rights resolution 1997/61

Addendum

Country situations

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Introduction

1. This addendum to the report on extrajudicial, summary or arbitrary executions describes 86 country situations and gives an account of actions undertaken by the Special Rapporteur between 2 November 1996 and 31 October 1997. It also contains in summary form the replies received from Governments to his communications, as well as observations of the Special Rapporteur where appropriate.

2. Owing to restrictions on the length of documents, the Special Rapporteur was obliged to reduce considerably details of communications sent and received. As a result, requests from Governments to publish their replies in their totality could not be acceded to. For the same reason, responses from sources to requests of the Special Rapporteur, although of great importance to his work, are only reflected very briefly in the report.

3. In the report, the dates included in parentheses refer to the dates of Government replies and those of transmission of urgent appeals. The dates on which the Special Rapporteur transmitted allegations of violations of the right to life, that is 14 February 1997, 30 May 1997, 13 and 27 August 1997 and 29 September 1997, are not mentioned in the report.

I. COUNTRIES

Albania

Information received and communications sent

4. The Special Rapporteur sent one urgent appeal to the Government of Albania after a state of emergency had been declared in Albania on 2 March 1997 and fears had been expressed that the emergency provisions might lead to violations of the right to life in view of the fact that they reportedly authorized security forces to open fire to disperse crowds and to shoot, without warning, people who had failed to surrender their arms (7 March 1997).

Algeria

Information received and communications sent

5. The Special Rapporteur is deeply concerned about the human rights situation in Algeria, characterized by numerous massacres of civilians, including women, children and old people, which have reached an unprecedented level since the legislative elections of 5 June 1997.

6. According to information transmitted to the Special Rapporteur, the majority of these massacres are attributable to armed Islamic groups. Some of the massacres, however, were reportedly committed in the immediate vicinity of military barracks or security force positions with no action taken by the military or the security forces. Fears have been expressed as to the possibility that the State may bear some responsibility, because of information to the effect that members of armed groups are acting with the

full knowledge of the security forces, and even with the complicity of some of their members, and because it has become apparent that there are deficiencies in the system for early warning and prevention of massacres. Such massacres may leave up to hundreds of casualties at a time.

7. The security forces' use of bogus roadblocks has also been repeatedly mentioned as a means of violating civilians' right to life. Other information refers to summary executions of prisoners, who are sometimes said to have been held in secret detention, and of suspects at the time of their arrest. Lastly, the legalization of self-defence groups through a Decree of 4 January 1997 has encouraged the proliferation of militias, which is said to have complicated the issue of identifying those responsible for the massacres and their accomplices.

8. The Rapporteur transmitted an allegation he received according to which, on 26 February 1997, a former member of the Front Islamique du Salut, 30-year-old Rachid Medjahed, died in detention after being arrested by the security forces on or about 15 February. He was reportedly transferred to Algiers and appeared on Algerian television to confess that he had ordered the murder of the leader of the General Union of Algerian Workers, who was assassinated on 28 January 1997. Rachid Medjahed's family allegedly did not learn of his arrest until he appeared on television and were only informed of his death on 3 April 1997, over one month later. The death certificate refers to violent death resulting from bullet wounds.

Follow-up

9. The Rapporteur thanked the Algerian Government for its replies to the allegations he had transmitted the previous year and asked for further information about the discovery of 15 bodies in Dhalaâ forest, commune of Ain Taghrout, on 22 July 1994, in particular with regard to the investigations conducted and identification of the bodies. He asked it why the victims' families had been prevented from helping to identify the bodies on the basis of photographs taken by the Gendarmerie in Tixane when the bodies were discovered. The Special Rapporteur also asked whether the judicial inquiry opened by the local procurator had yielded results and whether it had been possible to identify and prosecute those responsible for the massacre (17 October 1997).

Communications received

10. The Government replied to the allegations transmitted by the Special Rapporteur, stating that Rachid Medjahed was arrested during the dismantling of a terrorist network and that he was shot three times during his arrest. He died following a sudden deterioration in his condition. According to the Government, the Mejdahed family were informed of their son's arrest and issued a burial permit. No autopsy was requested by any party following the death; the Algiers Procurator's Office nonetheless requested the examining magistrate to "look into the causes of death". The case is currently under investigation (10 November 1997).

11. The Government also informed the Special Rapporteur that an inquiry was under way in connection with the 15 bodies discovered in Taghrout. The

Government assured the Special Rapporteur that the information transmitted by him in his follow-up letter would be taken into consideration by the authorities conducting the inquiry and that the findings would be communicated to him as soon as possible.

Follow-up on invitations to visit Algeria

12. At a meeting with the Special Rapporteur on 25 April 1997, the Permanent Mission of Algeria confirmed its interest in receiving a visit by the Special Rapporteur following the invitation which the Government extended to him in November 1993, and proposed that the visit should take place after the June 1997 elections. In a letter to the Government, the Special Rapporteur suggested that the visit should be held in late January-early February 1998, immediately after the end of Ramadan (13 August 1997). Having received no confirmation from the Government, he sent a follow-up letter proposing the same dates (17 October 1997).

13. The Algerian Government informed the Special Rapporteur that it would like his visit to Algeria to take place at a later date than the one he had proposed owing to the forthcoming elections to the second chamber of the Parliament. The Government suggested that the date of the visit should be chosen in consultation with the delegation from the Ministry of Justice which would be taking part in the fifty-fourth session of the Commission on Human Rights. Lastly, the Government indicated its desire for a meeting with the Special Rapporteur on his next visit to Geneva.

Observations

14. The Special Rapporteur wishes to thank the Algerian Government for the information which it has kindly brought to his attention and for its desire to cooperate, reflected in the Government's renewed interest in receiving a visit by the Special Rapporteur. Such a visit might in principle take place jointly with the Special Rapporteur on torture, who has also asked to make a visit. The Special Rapporteur regrets the lack of precise information concerning the allegations of violations of the right to life despite the fact that they continue to occur on an alarming scale. Such violations, which vary in nature and extent, are allegedly being committed both by the security forces and by armed Islamic groups and self-defence groups. Such a multitude of culprits and accomplices complicates the evaluation of the situation regarding the right to life in the country. The Special Rapporteur notes that a State has an overriding duty to ensure the protection of civilians and put an end to massacres by all appropriate means, while maintaining the rule of law. The distressing number of victims - running into tens of thousands - who include women, children and even defenceless infants and old people, points to a crucial need for effective mechanisms for preventing such massacres and systematically investigating their circumstances. The system for compensating the survivors and the victims' families also needs to be reinforced. For that reason, the Special Rapporteur is particularly eager to visit Algeria, in order to evaluate the situation for himself and to be in a better position to recommend specific measures for protecting the right to life.

Angola

Information received and communications sent

15. The Special Rapporteur sent an urgent appeal to the Angolan Government on behalf of Rwandan Hutu refugees who were said to have entered Angola in late April 1997 while fleeing from the approaching Alliance of Democratic Forces for the Liberation of the Congo-Zaire led by Laurent-Désiré Kabila. According to the information received, at least 500 of them entered the area controlled by the National Union for the Total Independence of Angola (UNITA). It is reported that the Angolan Government, which has not yet re-established its authority over this part of the territory, is denying the Office of the United Nations High Commissioner for Refugees (UNHCR) access to the Rwandan refugees (15 May 1997).

Communications received

16. In response to the reference in the Special Rapporteur's report (see E/CN.4/1997/60/Add.1, para. 18) to his failure to receive a reply from the Government concerning allegations of violation of the right to life of José Adao Da Silva, shot by police officers, and Antonio Maltez, killed by members of the security forces, the Government informed the Special Rapporteur that it had transmitted to him a letter dated 25 November 1996 referring to those cases. An inquiry had been opened to establish the circumstances in which the two persons had died, but according to the Government there was no evidence of extrajudicial, summary or arbitrary executions.

Follow-up

17. The Special Rapporteur thanked the Angolan Government for its replies to the allegations transmitted to it in 1995 and asked for further clarification regarding the deaths of José Adao Da Silva and Antonio Maltez. He asked to be informed of the results of the inquiry and asked whether or not the person or persons responsible had been identified and prosecuted. The Special Rapporteur also reminded the Government that his report had only covered communications sent and received during the period 25 November 1995 to 1 November 1996 and that, consequently, the Government's reply dated 25 November 1996 would appear in the current year's annual report.

Observations

18. The Special Rapporteur wishes to thank the Angolan Government for the information it has brought to his attention. He regrets, however, that no reply has been received from the Government concerning the allegation transmitted in 1997. The Special Rapporteur also reminds the Government of its obligation to investigate all allegations of violations of the right to life and provide protection for all refugees in its territory.

Argentina

Information received and communications sent

19. The Special Rapporteur sent two urgent appeals to the Government of Argentina, one of them on behalf of Daniel Stragá, a human rights lawyer and journalist, who had received an anonymous telephone call stating that there was going to be an attempt on his life. According to the information received, Daniel Stragá, a member of the non-governmental Coordinating Organization against Police and Institutional Repression (CORREPI), is representing the families of victims of police brutality, including alleged extrajudicial, summary or arbitrary executions (21 February 1997).

20. The Special Rapporteur also sent an urgent appeal on behalf of Magdalana Ruiz Guiñazu, a radio and television journalist, after she received a telephone call telling her that she was "next". This incident would appear to be connected to the death of José Luis Cabezas, a staff photographer for the magazine Noticias, whose body was found inside a burnt-out car on 25 January 1997 in Pinamar, Buenos Aires Province. Death threats were also allegedly received by Ariel Garbarz, a journalist on the staff of Página 12, from men identifying themselves as members of the Buenos Aires police force, who warned him to stop writing articles about the death of José Luis Cabezas. The Special Rapporteur also asked the Government to take steps to protect the physical integrity and right to life of Maria José Fernández Llorente, the sister of a journalist on Canal 13 who was covering the death of José Luis Cabezas. Ms. Fernández was allegedly attacked by several men who warned her that if her brother continued his investigations, her family would suffer the consequences (3 July 1977).

Observations

21. The Special Rapporteur regrets that by the time this report was finalized no replies to the communications had been received from the Government. He urges the Government to ensure that all allegations of violations of the right to life are exhaustively and impartially investigated, with a view to establishing the facts, finding those responsible and bringing them to justice, and providing the victims with adequate compensation.

Armenia

Follow-up

22. The Special Rapporteur sought further clarification in regard to the case of Rudik Vardanian, who reportedly died on 21 January 1993 in police custody as a result of injuries inflicted during a severe beating. In particular, he requested to be informed of the outcome of the procedings against the two accused police officers, as well as of the results of the investigations carried out concerning a third police officer.

Bahamas

Information received and communications sent

23. The Special Rapporteur sent an urgent appeal to the Government on behalf of John Higgs who was reportedly scheduled to be executed on 29 July 1997. It was brought to the Special Rapporteur's attention that John Higgs's execution had been approved despite the fact that he had not exhausted all avenues of appeal. He had reportedly not been able to apply for leave to appeal to the Judicial Committee of the Privy Council in London, the final court of appeal for the Bahamas. It was also reported that the Court of Appeal in the Bahamas had not yet given the reasons for rejecting John Higgs's appeal (22 July 1997).

Communications received

24. In its reply to the urgent appeal sent on behalf of John Higgs, the Government informed the Special Rapporteur that the laws of the Bahamas do not provide for a period within which applications to the Privy Council for special leave to appeal must be filed and that the Governor-General's Administrative Rules entitled "Special Leave to Appeal to the Privy Council (Sentence of Death) Rules" require merely an intimation to the Governor-General that the convict intends to appeal to the Judicial Committee of the Privy Council for special leave to appeal, whereupon the execution will be postponed. It was also brought to the Special Rapporteur's attention that the reasons for decisions made by the Court of Appeal are not a necessary precondition for the filing of an application for special leave to appeal. The Government therefore concluded that between 2 May 1997 and 17 July 1997 John Higgs had had sufficient time to give the necessary intimation to the Governor-General of his intention to apply to the Privy Council for special leave to appeal.

Bahrain

Information received and communications sent

25. The Special Rapporteur transmitted allegations regarding violations of the right to life of the following three persons:

(a) Bashir Abdullah Ahmed Fadhel, who was reportedly beaten to death by members of the security forces on 18 May 1997 in Daih in the context of an operation to disperse peaceful gatherings in the main assembly hall and the mosque;

(b) Abdul-Zahra' Ephrain Abdulla, who reportedly died four days after his arrest in Sanabis by members of the security forces on 1 June 1997 as a result of injuries inflicted during severe beatings;

(c) Sheikh Ali-Mirza Al'Nakkas, who reportedly died in police custody in Al-Qal'a Prison, Manama, on 29 June 1997, allegedly as a result of lack of medical care.

Communications received

26. The Government provided replies to several communications sent by the Special Rapporteur during 1996. With regard to the case of Zahra Kadhem Ali, who reportedly died on 23 July 1996 in a military hospital some hours after being shot by security forces, the Government indicated in its response that she had died in a private hospital in Bahrain as a result of a heart attack which occurred at home and that the security forces had no connection with her death (15 November 1996). Concerning the case of Abdul Amir Hassan Rustum, who reportedly died on 11 May 1996 as a result of injuries inflicted by security forces when they intervened in a peaceful demonstration, the Government informed the Special Rapporteur that he had died of an epileptic fit following a known history of epilepsy and that he had not participated in any demonstration in Daih (20 December 1996).

27. The Government also responded to the Special Rapporteur's follow-up letter of 1 September 1996 in which the Special Rapporteur requested detailed information with regard to several cases (20 December 1996). With regard to the cases of Hani Al-Wasti and Hani Abbas Khamis, the Special Rapporteur was informed that the Government maintains its position and refutes the repeated allegations. Regarding the case of Issa Ahmad Hasssan Qambar, the Government referred to its reply dated 9 April 1996.

Observations

28. The Special Rapporteur continues to be concerned about allegations regarding violations of the right to life in Bahrain. In accordance with the request of the Commission on Human Rights to further enhance his dialogue with Governments, the Special Rapporteur addresses follow-up communications to Governments to allow him to better assess the merits of allegations. He notes with concern the Government's apparent unwillingness to cooperate with him in this respect.

Belarus

Information received and communications sent

29. The Special Rapporteur transmitted an urgent appeal on behalf of Nadezhda Zhukova, a human rights defender working for the Belarusian Helsinki Committee, after she had been threatened by two men who introduced themselves as "young Belarusian patriots". It was reported that it was believed that the two persons belonged to the "Belarus Patriotic Youth Union", an organization which, despite the fact that it claims to be independent, was allegedly established and is financed by the President of Belarus. It was also reported that one of the men who had threatened her had come out of a car bearing a police number plate (16 October 1997).

Bolivia

Information received and communications sent

30. The Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal on behalf of

Waldo Albarracín, a lawyer and President of the Permanent Human Rights Assembly of Bolivia, who was detained in La Paz by eight police officers and threatened with death. The Special Rapporteur was informed that this event might have been related to public statements by Waldo Albarracín concerning a clash between miners and the police in the Department of Potosí, which left nine dead (6 February 1997).

31. The Special Rapporteur sent another urgent appeal on his behalf on being informed that the threats had not stopped. In the same communication the Special Rapporteur asked that steps also be taken to protect the physical integrity and right to life of Mr. Juan del Granado, a lawyer and Chairman of the Human Rights Committee of the Chamber of Deputies. Mr. del Granado had reportedly received calls threatening him with death or disappearance. The threats might be related to Mr. del Granado's public condemnation of the abduction of Waldo Albarracín (24 February 1997).

32. The Special Rapporteur also transmitted allegations he had received of violations of the right to life of the following miners and peasants: Ercilia López, José Gutiérrez, Marcial Calla, Galo Luna, José Espinosa, Wilmer González, aged 15, Santos Casio Padilla and Miguel Choque, aged 15, who were killed by members of the police and military on 17 December 1996 when peasants and miners occupied the Amayapampa and Chiquita-Capacirca mines in Potosí, to confront the exploitative mining companies and demand their rights; Alberta Orellán, Freddy Rojas, aged 22 months, Ernesto Quispe and three unidentified other persons, who were killed in April 1997 during an operation aimed at eradicating coca production in the region of Bajo Mariscal, Eterazama, El Chapare, Potosí. Members of the Mobile Rural Patrol Unit (UMOPAR), the environmental police and the Coca Conversion Department (DIRECO) are also said to have participated in the operation.

Communications received

33. The Government of Bolivia informed the Special Rapporteur that Mr. Waldo Albarracín enjoyed complete freedom and that the reasons for his temporary detention were being investigated by the Committee on the Constitution and Judicial Police of the National Congress (7 March 1997 and 12 May 1997).

34. The Special Rapporteur was told that the President of the Inter-American Commission on Human Rights had been asked to investigate and determine responsibility for the incidents at Amayapampa and Chiquita-Capacirca (12 May 1997). He was later told that representatives of the Inter-American Commission on Human Rights of the Organization of American States had met at the scene of the events and begun an investigation. The Inter-American Commission on Human Rights produced a report which was made available to the Attorney-General of the Nation. At the time the Government's reply was prepared, the Public Procurator's Office was conducting the relevant investigation, which had not yet been concluded. The Government also informed the Special Rapporteur that, pursuant to Supreme Decree No. 24793 of 4 August 1997, a compensation fund had been established for the relatives of persons killed or injured in incidents caused by the actions of State officials (31 October 1997).

Observations

35. The Special Rapporteur wishes to thank the Government of Bolivia for its replies. He welcomes the adoption of the Supreme Decree of 4 August 1997 establishing a compensation fund for victims. He further urges the authorities to ensure that law enforcement officials receive comprehensive training in human rights questions and, above all, concerning limitations on the use of force and firearms in the performance of their duties.

Brazil

Information received and communications sent

36. Information received by the Special Rapporteur's office points to an increase in violence against children and adolescents, mainly in the State of Rio de Janeiro. Figures provided by the Children's and Adolescents' Court in Rio de Janeiro (2a. Vara da Infancia e Adolescencia do Tribunal de Justica do Rio de Janeiro), would appear to indicate that 46 per cent of the 1,226 violent deaths of children and adolescents that occurred in 1994 had involved the use of a firearm and more than 50 per cent of the 1,138 such deaths reported in 1995 had involved firearms.

37. According to an analysis of these figures by the Children's and Adolescents' Court, in a departure from recent years more children and adolescents have been killed or injured in drug-related violence and clashes between groups and with police officers than in death squad activities. It would appear, however, that the lack of detailed investigations into these deaths makes it difficult to determine who is responsible for them. In this connection, it is reported that the National Human Rights Programme begun in May 1996 includes a Commitment by the Government to establish a system for gathering and producing accurate statistics on human rights violations against children and adolescents.

38. The Special Rapporteur was also informed that in November 1995 the State of Rio de Janeiro promulgated Decree No. 21,753, stipulating that police officers performing acts of bravery would be decorated and receive a pay rise of 50 to 150 per cent. Between November 1995 and April 1996, 257 decorations of this type were reportedly issued. The point was made that this Decree would encourage the police to use more force in operations in which they were involved.

39. In the course of the year allegations of a general nature were also received to the effect that in Maceio, the capital of Alagoas, members of the civil police were reportedly harassing, ill-treating and even violating the right to life of homosexual prostitutes. According to the information received, at least seven homosexual prostitutes had been killed in the past year, but a judicial investigation had been opened in only one of those cases.

40. The Special Rapporteur transmitted four urgent appeals to the Government of Brazil on behalf of the following persons:

(a) Members of the Guarani-Kaiowá indigenous community, who were evicted from the land they occupied in Sucuriy, Maracajú municipality,

Mato Grosso do Sul, by armed civilians, during clashes over land between indigenous people and local landowners. A group of some 50 armed men allegedly threatened them with violence if they did not leave the land. It was reported that the police had not provided the indigenous people with any kind of protection (17 January 1997);

(b) Witnesses to the events surrounding the death of Wilson Soares de Souza, Walmir Barbosa da Silva, José Alexandre da Silva, Edmilson José de Oliveira and Antonio Geronimo da Silva Junior, members of a death squad, in a reported clash with members of the civil police of the Robbery and Theft Department in the Alta Sao Sebastiao district of Cavaleiro. The clash allegedly took place shortly after a police officer from the Robbery and Theft Department, Moisés Francisco de Melo Júnior, and a police informant, José Carlos Valdelino Passos, had been killed by members of the death squads. This urgent appeal was transmitted jointly with the Special Rapporteur on torture (20 January 1997);

(c) Witnesses to the massacre at Nova Natal, Natal, Rio Grande do Norte in January 1993, who had begun testifying against four police officers charged with the massacre. According to the information received, the three witnesses had been receiving intimidating visits in their homes from the accused and other members of the police (9 May 1997);

(d) Marcelo Denaday, a lawyer representing the family of Carlos Batista and assistant to Procurator Luiz Renato Azevedo da Silveira, who was attacked in Vitória, Espérito Santo State. Both Marcelo Denaday and Procurator Luiz Renato Azevedo da Silveira had been investigating the murder of Carlos Batista de Freitas, in a case allegedly involving members of a police association, Scuderie Detetive le Cocq (SDLC) (20 June 1997).

41. The Special Rapporteur also transmitted allegations he had received in connection with violations of the right to life of the following persons:

(a) Minors: Robson Guerreiro Bittencourt and Isaias Teixeira Rosa, both aged 16, who were killed on 23 April 1996 by private security agents and military police officers in Rio de Janeiro; Anderson dos Santos Tossato, aged 14, who was killed on 21 November 1996 when found playing with blank pistols in a street near his home in Sao Bernardo do Campo on the outskirts of São Paulo, by military police officers; Jamil Martins Ramao, aged 15, Junior Sandro Marques Leal, aged 16, and Gilmar Ferreira de Franca, aged 14, whose bodies were found with their hands tied and bullet wounds in the head after they were abducted from Taquaril Square in Belo Horizonte on 15 March 1996, allegedly by a group of civil police officers called the "grupo reaçao" (reaction group); Joao Ricardo Dantas Capistrano, a 17-year-old student, who was killed on 5 November 1995 by a police officer in a bar in the centre of Santa Catarina, Norte de Natal;

(b) Deaths during or shortly after arrest; Jose Ivanildo Sampaio de Souza, who was found dead on 25 October 1995 on federal police premises in Fortaleza, Ceara, after being detained the day before because of alleged involvement in drug trafficking; Luis Paulo da Silva Garcia, who was killed by military police officers on 20 September 1996 after being arrested for robbery and taken to police station No. 23 in Rio de Janeiro; Romildo da Silva and

Antonio Carlos Santana Silva, whose bodies were found in a Campo Lindo clinic after they were detained on 28 August 1995 by five police officers; Luis Carlos Chagas da Rosa, who died in a Porto Alegre hospital on 19 August 1995 from injuries sustained a few days earlier while in police custody; Jorge Siqueira de Oliveira, who was killed on 8 March 1995 by a member of the military police while boarding a bus from Porto Alegre to Alvorada; Luiz Antonio Barbosa, an alleged drug dealer who was killed by a group of civil police officers on 21 October 1995 in Belo Horizonte in retaliation for the death of a police officer he allegedly killed; José Candido dos Santos, who died on 16 February 1997 at police headquarters in Itarema of injuries from ill-treatment and torture;

(c) Homosexual prostitutes; a transvestite, José Miguel dos Santos, and two homosexuals known as Carlos and Magao, who died on 6 June 1997 after being shot in the head in the centre of Maceio, where they practised prostitution. Two officers from the civil police station in Maceio and a civilian are charged with their deaths.

42. The Special Rapporteur also transmitted allegations of violations of the right to life of 9 unidentified persons who were killed on 16 January 1996 when more than 100 police officers from the automobile theft division of the Twelfth Police Station in Itapua and the Fourth Police Station in Sao Caetano raided the Jaguaribe shanty town in Salvador looking for members of a criminal gang.

Communications received

43. The Government of Brazil provided information on the case of Francisco Gilson Nogueira de Carvalho, transmitted by the Special Rapporteur in 1996. According to the Government, investigations are being conducted by the Federal Police to ensure that proceedings are as impartial as possible. It also said that in order to avoid interference with the investigations, the Governor of Rio Grande do Norte removed the Deputy Secretary of State for Public Security from office because of suspected involvement with the group known as Meninos de Ouro (12 December 1996).

44. In connection with the urgent appeal transmitted by the Special Rapporteur on behalf of the Guarani-Kaiowá indigenous community, the Government said that demarcation of the indigenous land had begun and that when the conflict had broken out between the indigenous group and members of the Maracajú Rural Trade Union, the regional administration of the National Indian Foundation (FUNAI) in Amambaí, together with the Government Attorney in Mato Grosso do Sul, had immediately called in the Campo Grande/MS federal police in order to protect the indigenous persons' physical integrity. It stated that the indigenous persons were camped along the highway awaiting a judicial decision authorizing the immediate reoccupation of their land (20 February 1997).

45. The Government also stated that Wilson Soares de Souza, Walmir Barbosa da Silva, José Alexandre da Silva, Edmilson José de Oliveira and Antonio Geronimo da Silva Junior died in a clash with the police after resisting arrest and opening fire on the police officers. An investigation has been opened and a district police chief assigned to conduct it. The district

police chief and the five police officers involved in the case have been dismissed. The Government also stated that the State of Pernambuco conducts a witness protection programme known as "Pro Vita", which assists anyone under threat who explicitly requests protection. The witnesses to the Cavaleiro incident have not requested protection to date (20 February 1997).

46. Regarding the case of José Ivanildo Sampaio de Souza, the Government of Brazil stated that Decree No. 9305 of 13 September 1996 authorized payment of a pension to the victim's widow and minor children in compensation for his death (5 March 1997).

47. The Government stated that most of the observations concerning Brazil in the Special Rapporteur's report to the fifty-third session of the Commission on Human Rights (E/CN.4/1997/60/Add.1) adequately reflected the situation in the country. It did not agree, however, with paragraph 61 of the report regarding the new procedures for the demarcation of indigenous land introduced by Decree No. 1775/96. The report stated that "... the uncertainty created by this decree could lead to violent incursions onto indigenous lands and to human rights abuses". The Government said that such fears were unjustified, since the purpose of the decree was precisely to strengthen the legal bases for the land demarcation process and thus reduce uncertainty and the risk of violence against indigenous people (9 April 1997).

48. Additional information about the Candelaria massacre was also provided. Of the eight people involved, one was not charged by the prosecution and another died before coming to trial. One of the military policemen charged with the crime was sentenced to 309 years' imprisonment. After a retrial in July 1996, his sentence was reduced to 89 years; another of the military policemen involved was sentenced to 261 years' imprisonment on 28 November 1996. Another of the accused was due to be tried in May 1997. The three others allegedly involved were acquitted for lack of evidence (2 May 1997).

Observations

49. The Special Rapporteur thanks the Government of Brazil for the replies provided and its willingness to cooperate with his mandate. It welcomes the sentences imposed on policemen charged with the Candelaria massacre. The Special Rapporteur wishes to express his concern about allegations of violations of the right to life against minors and requests that the Government prosecute those responsible and take all necessary measures to guarantee that such violations do not recur. He also expresses his concern at the fact that Decree No. 21,753 might encourage members of the police to use greater force in operations in which they are involved.

Bulgaria

Information received

50. The Special Rapporteur was informed that police brutality continued to be a serious problem in Bulgaria and that during 1997 several individuals had

died in custody under suspicious circumstances. It was reported that investigations had been initiated into several of these cases but that little or no progress was made to punish the perpetrators.

Communications received

51. With regard to the case of Kostadin Timchev, who, following his arrest, was taken to hospital on 25 April 1995 with a brain haemorrhage which caused his death five days later, the Special Rapporteur was informed that the Regional Military Prosecutor's Office had initiated an inquest (17 November 1996).

Follow-up

52. The Special Rapporteur sent a follow-up communication to the Government seeking further clarification with regard to several cases to which replies had been received during 1996.

53. In regard to the case of Kostadin Timchev, the Special Rapporteur requested to be informed of the outcome of the inquest. He also asked to be informed of the reasons for the Regional Military Prosecutor's Office being responsible for conducting the inquest and whether results of the inquest had been made public.

54. Regarding the case of Assen Ivanov, the Special Rapporteur expressed his interest in receiving a copy of the autopsy report and of the full report of the investigation once it had been finalized.

55. Concerning the case of Iliya Gherghinov, the Special Rapporteur received further information from the source contradicting the Government's reply. The source reiterated that eyewitnesses had seen a police officer beating the victim in the street and that witnesses who had seen his body in the morgue claimed that his right leg was broken, that there was a large wound on the right side of the head above the temple, that his genitals had been crushed, and that there were bruises all over his body as well as cigarette burns on his hands. The Special Rapporteur therefore requested a copy of the autopsy report and of the full report of the investigation. He also sought further clarification with regard to the questioning of the eyewitnesses in the context of the inquest procedure and the authorities conducting the investigation.

Observations

56. The Special Rapporteur remains concerned that little or no progress was reportedly made in bringing to justice those alleged to be responsible for violations of the right to life, in particular members of the police, and that as a result they continued to enjoy impunity. The Special Rapporteur calls on the Government to investigate all alleged violations of the right to life, to bring perpetrators to justice and to provide compensation to the victims' families.

Burundi

Information received and communications sent

57. The information received by the Special Rapporteur shows that violations of the right to life are continuing to occur on a large scale in Burundi. The Special Rapporteur received frequent allegations of extensive massacres, mainly of Hutus, by the Burundian army. Bloody clashes also occurred between members of the Burundian army and rebel groups, in different regions of the country, leaving many civilians dead. Reprisals against civilians by the army or rebel groups have also left many casualties. Since the end of 1996, there have reportedly been many operations to round up Hutu civilians forcing tens of thousands of them to leave their hills and go and live in camps. In the course of such operations, hundreds of men, women and children are said to have been the victims of extrajudicial executions and massacres by the soldiers or attacks by the rebels on some of the places where they were rounded up. Several Burundi provinces are said to be involved, including Muramvya, Gitega, Kayanza, Bubanza, Kurutzi and rural Bujumbura.

58. The Special Rapporteur was also informed of the execution by hanging on 31 July 1997 of six people sentenced to death after a trial reported to have fallen short of international guarantees of due process. These executions were the first to have taken place in Burundi since 1982. At least 150 persons sentenced to death are currently awaiting execution in Burundi prisons.

59. A detailed analysis of the human rights situation in Burundi is contained in the reports of the Special Rapporteur on the situation of human rights in Burundi (A/52/505 and E/CN.4/1998/72/Add.1).

60. The Special Rapporteur made an urgent appeal to the authorities after being informed of the expulsion by Tanzania of 48 Burundian refugees, who, upon returning to Burundi on 5 January 1997, were arrested and taken to the military camp in Muyinga, where they were reportedly tortured and then killed. On 10 January 1997, 122 Burundian refugees sent back to Burundi by the Tanzanian authorities were allegedly killed by Burundian soldiers upon entering the country, at the Kobero border post. This urgent appeal was sent jointly with the Special Rapporteur on the situation of human rights in Burundi (30 January 1997).

Observations

61. The Special Rapporteur regrets that he has not so far received any reply regarding the allegation transmitted. He remains concerned at the persistent violations of the right to life, of which women, children and old people are the main victims. The Special Rapporteur also regrets that death sentences are continuing to be handed down following judicial proceedings that do not meet international guarantees of due process and which therefore constitute another form of the violation of the right to life.

Cambodia

Information received and communications sent

62. The Special Rapporteur received numerous allegations of extrajudicial, summary or arbitrary executions following the violent events that took place on the weekend of 5-6 July 1997 at Phnom Penh, when the armed forces of the Second Prime Minister, Hun Sun, launched an attack on forces loyal to the Prime Minister, Prince Norodom Ranariddh. It is reported that most of Prince Ranariddh's supporters hurriedly fled the country while others were arrested and executed. For a thorough analysis of the human rights situation in Cambodia, the Special Rapporteur would refer to the report of Mr. Hammarberg, Special Representative of the Secretary-General on the situation of human rights in Cambodia (E/CN.4/1998/95).

63. Following the events of 5-6 July 1997, the Special Rapporteur sent the Government a communication requesting clarification of the extrajudicial executions, which are said to number at least 35 and include leading political figures such as Hor Sok, Junior Minister in the Ministry of the Interior and member of Prince Ranariddh's United National Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC), and Chao Sambath, head of the Information and Espionage Service of the Ministry of National Defence. The Special Rapporteur also informed the Government that at least four high-level generals had reportedly been killed, including General Krauch Yeuam, Under-Secretary, in the Ministry of Defence, General Ly Seng Hong, Deputy Director of Personnel of the Royal Armed Forces of Cambodia, General Sam Norin, Deputy Commander-in-Chief of the Special Military Region, and General Maen Bun Than, Director of Logistics and Transport in the Ministry of Defence. Less influential members of FUNCINPEC were apparently not spared; the bodies of some of them were found in a Phnom Penh temple and on the outskirts of the capital.

64. The Special Rapporteur also transmitted to the Cambodian Government allegations of violations of the right to life of the following persons:

(a) Chun, Na, Naak, Chann, Chim and Chuoen, six children ranging from two to eight years of age, were allegedly killed on 18 September 1996 when a bomb exploded near an ice cream vendor, where they were standing. A drunken soldier recognized as a member of the special military region forces reportedly launched a B-40 rocket in the direction of the group of children following an altercation with his colleagues;

(b) At least 17 persons were reportedly killed on 30 March 1997 by grenades while participating in a peaceful demonstration of supporters of the "Party of the Khmer Nation" (KNP). The exact number of victims has not been determined, but 12 have been identified: Chanty Pheakdey, Chea Nang, Chet Duong Daravuth, Han Mony, Nam Thi, Ros Kea, Sam Sarin, Sok Kheng, Yoeun Yorn, Yong Sok Noeuv, Yos Seam and Yong Srey. According to the information received, soldiers present at the scene did not help the injured and prevented the arrest of two men identified as having thrown the grenades.

Observations

65. The Special Rapporteur regrets that no reply has been received from the Government to date regarding the allegations transmitted. He requests the authorities to make impartial and exhaustive inquiries into the allegations of summary executions and put an end to the impunity prevailing in this area. He was particularly shocked by the allegations concerning the group of six children aged between two and eight. He also asks for those responsible for violations of the right to life in general to be identified and prosecuted and for appropriate compensation to be paid to the victims or their families.

Cameroon

Information received and communications sent

66. The Special Rapporteur has received information to the effect that violence broke out in March 1997, a few weeks before the legislative elections in May, in Nord-Ouest Province, an opposition stronghold. A number of persons arrested by the security forces reportedly died in prison as a result of torture and lack of medical care.

67. The Special Rapporteur transmitted allegations concerning the deaths of four persons identified: Richard Ngwa Formasoh, who died of injuries on 6 July 1997 at the central prison in Yaoundé (Nkondengui prison) after being subjected to torture and ill-treatment during his arrest and detention at the gendarmerie station in Bamenda, Nord-Ouest Province; Samuel Tita, who died on 1 May 1997, one month after being arrested and transferred to the gendarmerie station in Bamenda, from lack of medical care and malnutrition; Pa Mathias Gwei, who died on 25 May 1997 at Bamenda Hospital after being arrested at Oku and tortured; and Emmanuel Konseh, who died during transfer to Bamenda on 28 March 1997 after being arrested at Oku and stabbed with a bayonet.

Central African Republic

Information received and communications sent

68. The Special Rapporteur received information that two amnesty laws had recently been promulgated. The first, dated 30 May 1996, grants amnesty for offences committed by members of the Central African armed forces who were responsible for the mutinies of 18 to 21 April 1996 and 18 to 28 May 1996. The second law, dated 15 March 1997, grants amnesty for offences connected with the mutiny of 15 November 1996 to 25 January 1997.

69. The Special Rapporteur sent the Government an urgent appeal on behalf of Mr. Edouard Batoumbaye and his family, reportedly threatened with death by rebels. The information received speaks of an armed attack against his family and looting of his home by six men in military uniforms (28 May 1997).

Observations

70. The Special Rapporteur regrets that by the time this report was finalized, the Government had not replied to the allegation transmitted. The

Special Rapporteur also wishes to inform the Government of his concern about the two amnesty laws, which might have the effect of sanctioning impunity. He is convinced that respect for the rights of the victims and their families and the right to truth, justice and compensation will help bring about a genuine national reconciliation.

Chad

Information received and communications sent

71. The Special Rapporteur remains concerned about the human rights situation in Chad, notably the renewed outbreak of violations of the right to life since 1996. The Special Rapporteur recently received information indicating that some 52 civilians were killed in an attack launched by government forces on 30 October 1997 against the "Armed Forces for the Federal Republic" (FARF) at Moundou, southern Chad. Isolated incidents, in which members of the security forces arrested, tortured and executed numerous unarmed civilians, reportedly continued through 8 November.

72. The Special Rapporteur sent the Government an urgent appeal concerning a telegram sent by the Commander of the Specialized Units Group of the Chadian National Gendarmerie ordering the members of the nine gendarmerie services to proceed immediately to physically eliminate anyone caught in the act of stealing, subject to severe penalties, including demotion or dismissal from the army. According to the information received by the Special Rapporteur, several persons suspected of theft were killed within days after the telegram was sent: Georges Toubadé and Jean Nedbe Kabeda, arrested on 12 November 1996 after being caught stealing in a gombo field, were allegedly tortured and then killed; a minor was allegedly killed and thrown into the Chari river on 13 November 1996 after being caught by gendarmes stealing food from his neighbours; a pregnant woman charged with theft at the millet market was allegedly arrested by the gendarmes on 16 November 1996 and killed on the spot; a man accused of stealing a can of oil was allegedly killed on 15 December 1996 (24 January 1997).

73. The Special Rapporteur also transmitted to the Government allegations of violations of the right to life of the following persons:

(a) Houlibele Tissal, Kokreo Guirsala, Poure Ouangrebele, Hapmon Faïtoin, Sere Djakdjinkreo, Djaoutoin Taïssam, Mendandi Metoin, Djibrilla Yaya and Lamna Djoïna were all allegedly shot in public without trial, in the presence of administrative, political and military authorities. These executions reportedly took place on 24 December 1996, two days after these nine persons were arrested at Fianga on several charges including multiple theft, rape and physical abuse;

(b) Ndobi Abel, who was arrested in August 1995 and tortured, allegedly died of his injuries at Moundou hospital;

(c) Mbaïtarem Nasson was allegedly tortured and killed in August 1995 after being taken from his cell without authorization by the local gendarmerie commander;

(d) Bichara Digui, a member of an opposition political party, was allegedly killed on 16 August 1996 by three unidentified persons suspected of being members of the security forces;

(e) Albert Nadji, a religious teacher, was allegedly executed by members of the military in September 1995 after being taken from the church where he had sought refuge;

(f) Odette Belkoum, who died in custody on 26 September 1995 after being tortured;

(g) Ndoyo Ambroise, who died in April 1994 after being severely beaten by a gendarmerie patrol;

(h) Mbailassem Gédéon, a former member of the military, allegedly died of suffocation on 9 March 1996, in an overcrowded cell where he was being held;

(i) Djebayom Etienne, Djekoungatan Amand, Djekounyom Gabriel, Warie Sylvain, Nadjihadem Sébastien and Ngombaye Gédéon were allegedly killed by members of the military on 19 August 1995 at Beissa after being severely beaten;

(j) Ahmat Bougui Breme allegedly died in Oumhadjer hospital in May 1995 after being beaten by members of the security forces;

(k) Mahamat Ahmat Anat allegedly died in November 1996 after being tortured in an N'djamena police station.

(l) Mahamat Dare and Mahamat Sokou allegedly died in November 1995 at Faya Largeau prison after being subjected to torture and ill-treatment.

Observations

74. The Special Rapporteur regrets that no reply was received from the Government by the time this report was completed. Despite information to the effect that the order to kill thieves had been rescinded, the Special Rapporteur remains concerned about summary executions being perpetrated with complete impunity by the gendarmerie, the police and the administrative authorities and by deaths in custody under inhuman conditions. The Special Rapporteur urges the Chadian authorities to put an end to the persistent impunity by conducting thorough and exhaustive inquiries aimed at establishing responsibility for the summary executions of civilians and for all other violations of the right to life. The victims' right to justice and compensation must also be respected.

Chile

Information received and communications sent

75. The Special Rapporteur transmitted an urgent appeal on behalf of Sola Sierra Henríquez, Chairman of the Group of Relatives of Disappeared Detainees, and Viviana Díaz Cara and Mariana Guzmán Núñez, members of the

same organization, after they had received death threats by telephone. They also said they had been harassed by men in civilian clothes, who identified themselves as members of the Police Department. It was stated that the three women had applied to the Santiago Court of Appeal for protection (17 June 1997).

Communications received

76. The Government of Chile informed the Special Rapporteur that no member of the Police Department had been involved in the intimidation of Sola Sierra Henríquez, Viviana Díaz Caro and Mariana Guzmán Núñez. The Under-Secretary for the Interior also said that the persons concerned had been offered police protection, but had declined the offer. It was stated that on 9 June 1997, the above-mentioned persons submitted an application for protection to the Santiago Court of Appeal, which the Court granted, ordering that a police guard should be maintained for 30 days at the office of the Group of Relatives of Disappeared Detainees and for 15 days at the homes of the persons concerned (30 July 1997).

China

Information received and communications sent

77. The Special Rapporteur continued to receive reports on China's nationwide anti-crime campaign of 1996, which led to a number of executions unprecedented since 1983. It was brought to the Special Rapporteur's attention that executions in China might have accounted for 80 per cent of executions worldwide during this period. More than 4,300 persons were reportedly known to be executed during this period, a figure believed to fall short of the actual figure, for crimes including hooliganism, theft, corruption and drug trafficking.

78. In this context, the Special Rapporteur transmitted an urgent appeal to the Government on behalf of Wang Xizhong, director of a municipal trust company, who was reportedly sentenced to death on 20 January 1997 for embezzlement of more than 100 million yuan (US$ 12 million) (20 January 1997).

79. The Special Rapporteur also transmitted allegations regarding violations of the right to life of the following persons:

(a) In Tibet: Mr. Dorje, who reportedly died on or around 24 July 1996 as a result of injuries sustained in police beatings 20 days earlier; Tenchok Tempel, a monk of Sakya monastery, who allegedly died in detention in Sakya prison on 17 September 1996 as a result of torture; Jamyang Thinley, who had reportedly been arrested on 30 May 1996 during a raid on Chamdo monastery and who allegedly died as a result of torture on 18 September 1996, five days after his release on medical grounds from Chamdo prison;

(b) In Henan province: Zhang Xiuju, who was reportedly beaten to death in police custody following her arrest on 26 May 1996.

Communications received

80. The Government provided a reply to the urgent appeal sent on behalf of Wang Xizhong on 20 January 1997, informing the Special Rapporteur that he was sentenced to death in accordance with the law and that his case was at that moment pending before the Superior People's Court of Jiangsu province. It was also stated that China's application of the death sentence is in line with the International Covenant on Civil and Political Rights and that it has placed extremely strict constraints on the application of capital punishment, China's Penal Code providing that "the death sentence applies only to those who are guilty of the most heinous crimes" (14 May 1997).

81. The Government also provided information in response to the allegations of violations of the right to life transmitted during 1997. Concerning Mr. Dorje, the Special Rapporteur was informed that no such person existed. With regard to the case of Tenchok Tempel, the Government indicated that he had hanged himself and that his suicide was confirmed by a forensic medical examination. With respect to Jamyang Thinley, the Special Rapporteur was informed that he had died of tuberculosis meningitis on 27 November and that he had been taken to hospital immediately when he contracted the disease in October 1996 while undergoing re-education through labour. Concerning Zhang Xiuju, the Government affirmed that she had died as a result of injuries sustained when she jumped out of a prison van and that a forensic medical examination confirmed that her death had been caused by a severe skull injury and haemorrhage caused by the fall (3 August 1997).

82. In response to a letter from the Special Rapporteur dated 7 October 1996, in which the Special Rapporteur thanked the Permanent Representative of the People's Republic of China to the United Nations Office at Geneva for having received him and for an informative and fruitful conversation, the Government of China said that it was studying carefully the Special Rapporteur's request to visit China. The Special Rapporteur was also informed of the adoption of the Law on the Role of Lawyers and the Law on Administrative Punishment, and about the major changes made to the Law on Criminal Procedure and the Government's commitment to further improve its system of laws and the administration of justice in the light of its economic and social development (24 February 1997).

83. Moreover, the Government provided a reply to several allegations of violations of the right to life transmitted during 1995, all of which concerned persons who had died in detention due to ill-treatment or torture. Regarding the case of Kalsang Dolma Gangong, the Government indicated that she was suffering from serious tuberculous meningitis when she was imprisoned in 1993, that she was paroled on 21 December 1994 to enable her to receive medical treatment, and that she died at home on 22 February 1995. Regarding Tashi Tsering, the Government stated that during his detention he was twice hospitalized for treatment for high blood pressure after which his physical condition normalized, that he was not subjected to torture, and that he was released from prison upon completion of his sentence on 27 May 1993. With regard to Sherab Ngawang, the Government indicated that, after she had been released from labour camp, she fell ill with a gynaecological ailment and a gastric perforation which caused her death after treatment failed, and that the allegation that she was subjected to beatings by prison guards was not

true. With regard to Zheng Musheng, the Government confirmed that he had died as a result of beatings from other detainees. The Special Rapporteur was also informed that proceedings were started against those alleged to be responsible, that the responsible officials in the detention centre had received disciplinary punishments, and that the allegation that his wife was the subject of police harassment was not true (11 March 1997).

84. In the same communication, the Government also replied to the urgent appeal sent on 16 August 1995 on behalf of Wang Yuming, Zhang Zhejun, Xie Qiusheng, Pan Yongli, Jiao Zengtian and Dong Zhong, who were allegedly executed without having been granted the right to appeal or to seek clemency. According to the Government, of the six defendants, Xie Qiusheng, Jiao Zengtian and Dong Zhong had appealed against the judgement by the court of first instance. The judgements regarding those who had not appealed were submitted to a higher court for approval. The Government also stated that the six criminals all fell into the category of "most heinous criminals" under China's Criminal Law and that their death sentences therefore had a sound legal basis.

Observations

85. The Special Rapporteur wishes to thank the Government for the replies and the information provided. The Special Rapporteur once again feels compelled to express his utmost concern at the wide range of crimes punishable by death in China and the very high number of executions. He would like to remind the Government that the broadening of the range of capital offences which has reportedly occurred since 1979 counters the trend towards the limitation, and eventual abolition, of the death penalty as expressed repeatedly by the Human Rights Committee, the General Assembly and, more recently, the Commission on Human Rights. Moreover, the Special Rapporteur continues to be concerned about allegations of unfair trials and in particular a lack of respect for safeguards and guarantees for the protection of those facing the death penalty.

86. In the light of the aforementioned, the Special Rapporteur should like to reiterate his interest in visiting China to study *in situ* questions relating to the right to life. He regrets that no progress was made in this respect over the past year.

Colombia

87. The Special Rapporteur has continued to receive a large number of complaints about violations of the right to life. There is no evidence to suggest that there has been any improvement over previous years. It was reported that paramilitary violence was still responsible for most violations of the right to life. It was also stated that the paramilitary groups, i.e. the Peasants' Self-Defence Units of Córdoba and Urabá (ACCU), which were responsible for systematic violations of the right to life, were acting with impunity and with the acquiescence of certain elements in the armed forces. The zones most affected by the strong paramilitary presence were the departments of Antioquia, Caquetá, César, Guaviare, Meta and Norte de Santander. An increased military presence had also been recorded in the

south of Bolívar since March 1997. Clashes with the guerrillas in these areas were in turn causing mass displacements of the population to other areas.

88. As the Special Rapporteur has already stated in previous reports to the Commission, so many complaints are received by his office about Colombia that he cannot analyse them all. It is also impossible for him to provide appropriate follow-up in cases of violations of the right to life. The Special Rapporteur transmitted 24 urgent appeals to the Government of Colombia, requesting it to take the necessary measures to protect the physical integrity and right to life of the following persons, who had received death threats from members of the security forces and paramilitary groups, except where indicated to the contrary:

(a) Human rights activists:

(i) Sandra del Pilar Ubate, after receiving a death threat at the offices of the Colombian Association of Relatives of Disappeared Detainees (ASFADDES) in Bogotá. Sandra del Pilar Ubate and her family had already received death threats on previous occasions, probably to stop them from testifying before the Cali Regional Procurator's Office in connection with the investigations into the disappearance of John Ricardo Ubate, Sandra's brother (10 January 1997).

(ii) Ermilda Araque, Chairman of the Municipal Association of Women of Salgar (Antioquia) and Coordinator of the Women's Committee of the Antioquia Peasants Association, after being constantly harassed by unidentified persons, presumably connected with paramilitary groups (27 March 1997).

(iii) Wilson Patiño Agudelo, activist for the Remedios Human Rights Committee. He had earlier received death threats in connection with the fact that he had accused a police official of having been responsible for human rights violations in the municipality of Remedios (7 April 1997).

(iv) Gustavo Gallón Giraldo, after being accused of the offences of rebellion and drug trafficking, during a debate in the Senate Human Rights Committee on the opening of the office of the High Commissioner for Human Rights in Colombia, by the Commander of the Colombian armed forces (11 April 1997).

(v) Members of the People's Research and Education Centre (CINEP), after the murder of Carlos Mario Calderón, his wife, Elsa Constanza Alvarado, and her father, Carlos Alvarado Pantoja, by a group of men who identified themselves as members of the staff of the Procurator's Office (22 May 1997).

(vi) Pedro Julio Mahecha, lawyer and member of the José Alvear Restrepo Lawyers' Collective Corporation (CCA), and his family, after being subjected to intimidation and harassment. Pedro Julio Mahecha was

working on cases of human rights violations in which members of the Colombian security forces were said to be involved (5 December 1996).

(b) Priests:

(i) Jesús Martínez and Bernardo Villegas, Franciscan priests and human rights activists, threatened by a group of paramilitaries, who identified themselves as members of ACCU. This same paramilitary group is said to have killed six unidentified peasants in Sincelejo and to have sacked business premises (9 April 1997).

(ii) Father Ezio Guadalupe Roattino Bernardi, an Italian priest from the community of Caldona, Cauca Department, after being accused by members of the police of being a collaborator with the guerrillas (6 May 1997).

(c) Trade unionists:

(i) Participants in farmers' demonstrations in the regions of Guaviare, Caquetá and Putumayo, and their representatives, after the death of Victor Julio Garzón, Secretary-General of the National Agricultural Trade Union Federation (FENSUAGRO) and member of the committee responsible for monitoring compliance with the agreements reached between coca growers and the Colombian Government (13 March 1997).

(ii) Jorge Eliécer Marín Trujillo after receiving three anonymous telephone calls threatening him. Previously, he had received a note at the office of SIMTRAMCHINCHINA, in Chinchiná, in which he was threatened with death if he did not leave the region promptly. The note was signed by a paramilitary group calling itself "Death to Trade Unionists in the Coffee Industry" (21 March 1997).

(iii) Neftalí Vanegas Pérea, Chairman of the Central Services Cooperative (CENCOSER) in the municipality of Ocaña, Norte de Santander, and employees of the Santa Clara chicken farm, after the death of the legal representative of the Santa Clara chicken farm, Julio Hernando Enríquez, and after paramilitary elements had established themselves on land belonging to the farm (29 March 1997).

(d) Inhabitants of the following towns:

(i) Civilian population of the communities in the north east of Chocó after the increase in paramilitary activity in the region. Members of paramilitary groups are said to have advised the inhabitants of these communities not to enter the towns of Marsella, Brisas, Albania or Tanelita because they would kill anybody they found there (10 January 1997).

(ii) Inhabitants of the municipalities of Remedios, Yondó and Cantagallo after an increase in paramilitary activity in the

region and the deaths at the paramilitaries' hands of Reinaldo de Jesús Ríos, Norberto Galeano Cuadros and Jesús Antonio Cabal, whose bodies were said to have been found on the road between San Francisco de Yondó and Barrancabermeja, Santander Departament (17 February).

(iii) Inhabitants of the municipality of El Carmen de Atrato, Chocó Department, after receiving death threats from members of the army and paramilitary groups accusing them of collaborating with the guerrillas. The killing of Gustavo Taborda in the neighbourhood of the locality of El Carmen de Atrato and of Libia Vera by members of a paramilitary group in the immediate neighbourhood of the same locality added to the fears of other inhabitants (6 March 1997).

(iv) Civilian population of the municipality of Segovia, after the killing of Martín Emilio Rodríguez Londoño, Aurelio de Jesús Peláez, Luis Carlos Muñoz, and a man known as Didier or "el Grillo", by a paramilitary group operating in the municipality of Segovia with the presumed acquiescence of the security forces (13 March 1997).

(v) Civilian inhabitants of El Carmen de Bolívar and San Jacinto, after a group of some 50 paramilitaries invaded El Saldo, municipality of El Carmen de Bolívar, obliging some 30 of its inhabitants to leave their houses, and killing Doris Torres, a schoolmistress accused by the paramilitaries of collaborating with the guerrillas, Alvaro Pérez, peasant, José Esteban Domínguez, Ender Domínguez and Nicolás Arrieta, whose names appeared on a list in the paramilitaries' possession (7 April 1997).

(vi) Civilian inhabitants of south-eastern Urabá, after the deaths of Diofanor Sánchez Celada, Ramón Jiménez and Francisco Tabarquino (17 June 1997).

(e) Municipal representatives:

(i) Of Antioquia, after the death of Helí Gómez Osorio, municipal representative in Antioquia Department, and José Loaiza Correa, municipal representative from Cañasgordas, whose body was said to have been found in the waters of the river Sucio in the east of Antioquia. The urgent appeal was sent jointly with the Rapporteur on the independence of judges and lawyers (16 December 1996).

(ii) José Estanislao Amaya Páez, municipal representative from San Calixto, Norte de Santander, after receiving a written death threat signed by the paramilitary group "Catatumbo Self-Defence". This said that he had a week to leave the region and that his death would be followed by those of many other people. This urgent appeal is sent jointly with the Rapporteur on the independence of judges and lawyers (16 July 1997).

(f) Peasants' representatives:

(i) Belén Torres Cárdenas and Raúl Emilio Ramos, members of the National Association of Peasant Consumers - Unity and Reconstruction (ANUC-UR), who feared possible reprisals after attending various meetings at the Centre for Human Rights in Geneva to provide information on the present situation of groups of persons displaced from the Bellacruz estate, César Department (20 November 1997).

(g) Minors:

(i) Juan Carlos Herrera Pregonero, Fabián Mauricio Gómez and Andrés David Escobar, all three minors, after being taken by force from a minors' detention centre in Cali, known as the Valle de Lili Rehabilitation Centre, after a previous occasion on which three abducted minors had been found dead. Two former police officers and two officials from the Valle de Lili Centre are said to be under investigation in connection with the deaths of these minors (30 May 1997).

89. The Special Rapporteur also transmitted an urgent appeal on behalf of Angel Trujillo Somagoso, a former guerrilla fighter with the Revolutionary Armed Forces of Colombia (FARC), who was handed over to the army in 1994 after publishing various statements in which he accused the army and paramilitary groups of grave violations of human rights (17 January 1997).

90. The Special Rapporteur also sent two urgent messages to the Governments of Colombia and Panama in order to prevent some 400 peasants and their Colombian families from Unguía, Chocó Department, Urabá, who had fled from Panama after violent clashes between guerrilla and paramilitary groups, from being deported to Colombia without measures being taken to protect their right to life (5 December 1997 and 28 April 1997).

91. The Special Rapporteur also transmitted to the Government complaints about violations of the right to life of the following persons:

(a) Killed by paramilitary groups:

(i) Minors: César Augusto Bartolo, 12 years old, killed in Apartadó, Urabá, on 21 August 1996. The boy is reported to have been decapitated in front of other minors and his head displayed in public.

(ii) Human rights defenders: Jafeth Morales, human rights activist in the municipality of San Calixto and member of the local church communities, killed at Ocaña, Norte de Santander; Margarita Guzmán Restrepo, human rights activist, killed at Segovia town hall; Alvaro Nelson Suárez Gómez, priest, human rights defender, and Director of the Social Pastoral Secretariat of Cucutá Diocese and parish priest of the Church of the Divine Child, killed together with Luis Andelfo Peláez, a parishioner from the town of Rosario, Norte de Santander.

(iii) Indigenous persons: Gerardo Estrado Yaspuesan, Marco Antonio Nasner and Alfredo Basante, killed at Tuquerres, Nariño; José Miguel Domico, killed in the indigenous community of Dabeiba Viejo, municipality of Dabeiba, Antioquia.

(iv) Peasants: Eloy Villamizar Contreras, killed at Salazar, Norte de Santander; Luis Hernando Reyes, Ernestina Méndez Rico and Alberto Vargas, killed in the district of Casacara, César; Dioselino Quiñones, killed at Pelaya, César; Luis Elver Villa Sánchez, Mario Augusto Zapata Carvajal and Luis Antonio Barrientos Vélez, killed at the village of El Cruce, between Remedios and Yondó; Gerardo Alzate, killed at Granada, Antioquia.

(v) Political leaders: José Alberto Restrepo Pérez, former mayor of Segovia and activist in the Patriotic Union Party, killed at Medellín; Félix Guarniza Barragán, former town counsellor for the Liberal Party in the municipality of El Copey, killed at El Copey, César; Fredy García, former town counsellor and member of the Patriotic Union Party, killed at El Copey, César;

(vi) Trade unionists: Isidro Segundo Gil Gil, Secretary-General of the National Union of Food Industry Workers (SINALTRAINAL), killed at Carepa;

(vii) Others: Dario Covas Contreras, Diomedes Zapata, Rebeca Villareal and Baldomero Vergara, killed at El Guamo, Bolívar; Santander Mendoza, Alonso Cabezas, Magnum Murillo, Johnny Pájaro and Jaime Palacios, killed in the municipality of Riosucio, Chocó; Samuel and Jorge Barreto and Israel and Jorge Herrera killed at San Juan Nepomuceno, Bolívar; Huber Ascanio Abril, Jesús and Jorge Cardozo Santodomingo, Aurelio Lindarte, Alirio Quintero, Haider Cárdenas and Albeiro N., killed at San Diego, César; Manuel Díaz, Armando Chávez and Heder Hernández, banana workers, killed at Chigorodo, Antioquia; Luis Enrique Salgado, Emiro Tovar, Everto Tovar, Ovidio Castillo, Daniel Salgado, Feder Rivera and Denny Ruiz, killed at Toluviejo, Sucre; Antonio Maldonado and Libia Ortega, traders, killed in the districts of San Miguel and Santander, César; Rafael de Oro Martínez and Germán Dario Ospino, workers, killed at Tenerife, Magdalena; Emilio Quintero, Raúl Gómez, José Luis Agudelo and Alfredo Alba, killed at Cazuca; Jesús Toscano, killed at Pelaya, César; Luis Angel Guerra and Hernando Restrepo, killed at Zaragoza, Antioquia; Francisco and Marcelino Ballesteros, killed at Gilgal, Chocó; William Contreras and Fredy Durango, workers, killed in Apartadó, Antioquia; Luis Antonio Ramírez, Edilberto Mesa, Gerardo Alvárez, killed at El Playón, Santander; Humberto Londoño, Gabriel Parra, Dario Ceballos, Carlos Posada and Omar Alzate, killed at San Roque, Antioquia; Hernán Alonso López and Carlos Mario Betancur, killed at Carmen de Viboral, Antioquia; Benjamín Landero, Carlos Anibal Montes and Benjamín Landero, killed at San Jacinto, Bolívar; Carlos Eduardo Gómez, Luis Alexander González, Luis Eduardo Layos and Sandra Elena Rendón, killed at Guarne, Antioquia; César Díaz,

Jorge Cáceres and Daniel Hoyos, killed at Bellacruz; José Ignacio Acevedo, killed at Darién, Panamá; Cipriano García, killed at Yaviza, Panamá; Rubén Antonio Villa, Antonio Villa, Miguel Haya and Guillermo Serma, killed at San José, Apartadó; Marino López, killed at Vijao, Urabá; José David, killed at La Unión; Elías Zapata, Eliodoro Zapata, Alberto Valle, Félix Antonio Valle and Carlos Torres, killed in the community of Las Nieves; César Pérez, killed in the community of El Guineo; Alfonso Callejas Robles, killed at Puerto Wilches; Luis José Lemus, Segundo Vásquez, Otoniel Cañizares, killed at Puente Simaña; Luis Segundo Torres, killed at San Bernardo, municipality of Tamalameque; Fidel Sufscun, José Pitalua, Perica and Ediberto Jiménez, killed at Llano Rico, Urabá; Fabián Suárez García, killed at Granada, Antioquia.

(b) Killed by members of the army:

(i) Peasants: Diosemel, Adinael and Luis Toscano, killed at Valledupar, César; Johny de Jesús Bayona, killed by a counter-insurgency patrol at the settlement of Puerto Jordán, municipality of Tame; Alfonso Manuel Mendoza Barrios, killed at Turbo, Antioquia; José Olmedo Toro Alvárez and Vicente Angulo Benavídez, killed at Orito, Putumayo; Laurentino Avendaño and Ferney Delgado, killed at La Montañita, Caquetá, by troops from the Twelfth Army Brigade; Antonio Angarita and Carmen Angel Clavijo, killed in the municipality of San Calixto, Norte de Santander; Everto Antonio Herrera and Juan López, killed at Puerto Asis, Putumayo, by troops from Counter-insurgency Battalion 37 together with units of the military police when they were trying to disperse a demonstration by peasants.

(ii) Indigenous persons: Gilberto José Márquez Murillo and Argemiro Manuel Padilla Benítez, killed at Sincelejo, Sucre; Gustavo Hernández, an indigenous Huioto, killed at Solano, Caquetá.

(iii) Trade union leaders: Nazareno de Jesús Rivera, killed in the municipality of Segovia, Antioquia.

(iv) Others: Diego León Yarce, Martha Vélez and Suhey Montoya, minors, killed at Segovia; Uriel Cardona, member of the Colombian Communist Party leadership, and Alfonso Giraldo Osorio, worker, killed at Apartadó; Huber Antonio Ascanio Abril, Jesús and Jorge Cardozo, Aurelio Lindarte, Jaime Cárdenas and Nehemias Durán, killed in the district of Media Luna, San Diego, César; Jairo Bellere Buitrago, member of the communal action board of San José de Morichal, and Abimelet Parra, trader, killed in the municipality of Tame; Juan Coronel, killed by a counter-insurgency patrol in the municipality of Tame; Giraldo Arias Sosa, Hernán de Jesús Pérez and Jorge Eliecer Rodas, killed on the Montebello estate, municipality of Salgar; Jesús Eudoro Orjuela Trujillo, killed at Ibagué, Tolima; Reinel Valencia and Gelmer Porras, killed at El Castillo, Meta; Vladimir Zambrano,

Jenner Alfonso Mora, Juan Carlos Palacios and Arquímides Moreno, killed in the municipality of Mosquera; Leonardo and Bernardo Panesso, killed in the community of El Guineo, Apartadó.

(c) Killed by the police:

(i) Political leaders: Fabio Fonseca Guerrero, former mayor of the municipality of Uribia, killed by anti-narcotics police officers when taking part in a procession of civic and political leaders of Uribia and Guajira; Medardo Ducuara Leyton, Governor of the community of Sortija, killed in the municipality of Ortega, Tolima.

(ii) Peasants: Alonso Bonilla, killed at Puerto Asis when taking part in a peasants' demonstration; Segundo Saboby Urbano and Eber Cano, killed at Florencia, Caquetá, during a campaign by peasants.

(iii) Human rights defenders: Jorge Conde, killed by officers from the fifth police station in Cali, presumably because of his statements to the Human Rights Unit of the Procurator's Office on the disappearance of John Ricardo Ubate.

(iv) Others: John Jairo Pérez Romero, killed in the La Gloria district of Cundinamarca; Jaime Lara Vásquez, worker, killed at Facatativa, Cundinamarca, when taking part in a protest by the inhabitants of the municipality; Hector Gómez, killed in the municipality of Remedios, a hundred metres from a police command post, without the police making any effort to prevent the incident.

Communications received

92. The Special Rapporteur received a large number of replies from the Colombian Government (11 and 14 November and 2 and 20 December 1996, 8, 20 and 23 January 1997, 3, 10, 13 and 17 February 1997, 23 March 1997, 2, 4, 8 and 28 April 1997, 11 and 24 June 1997, 2, 7 and 22 July 1997, 6 and 21 August 1997, 9 September 1997 and 1 October 1997), which shows the Government's willingness to cooperate with the Special Rapporteur in the fulfilment of his mandate.

93. The Colombian Government informed the Special Rapporteur about the investigations launched and the judicial proceedings conducted in connection with the following cases and urgent appeals transmitted by the Rapporteur: Jesús Alberto Buitrago; Hugo Aldemar Manrique, Juan Carlos Girón Hurtado and Rodolfo Cetre Angola; Freddy Francisco Arboleda and Silfredy Arboleda; Fernando Carrillo Villegas and Eliseo Narváez; José Antonio Caldera, Juan Diniro Hernández, Jorge Eliecer Partenina Roa, Evangelista Urrego Ferreira, Milton Romero Churioi, Carlos Maurel Arriero and Edison Martínez; Pedro Pablo Vera Parra, Leónidas Tapiero Briceño, José Aldemar Delgado, María del Carmen Quiñones, Prince and Celestino Benavides; Jesús Ropero, John Hoymar Beltrán Galvan, Libardo Montalvo Pérez, Miguel Angel Cáceres Padilla, Fernando López, Geovanny Guzmán, Lorenzo Padilla, José Trinidad Galvan; Nelson Fernando Lombana; Jesús Daniel Lascarro Madera; Félix Enrique Martínez; Fabio de Jesús Gómez Gil; Martín Parroquiano Cubides;

members of the Human Rights Committee of El Carmen de Atrato; José Norbey Jule Cuicue; Germán García and Omar Quintero Lozano; Alexir Orozco Hernández; Milciades Canatillo; Adriano Portillo, Javier Contreras Baron and Alvaro Botello; Alvaro Díaz; Roison Mora Rubiano; Riofrio massacre; Guillermo Omeara Miraval et al.; Alvaro Moreno Moreno; Elvia Regina Cuello and Ezequiel Antonio Urbano; Rodrigo Flórez; Alberto Barriga Vergel; Jaime Ortiz Alvárez; Ramón Ricardo Avila; Ricardo Paredes García; displaced persons from the Bellacruz estate; José Lemus, Segundo Vásquez and Otoniel Cañizares; Jorge Cáceres; Jaime Laguna Collazos; Edinson Donado and Reina Elena Donado; Belén Torres and Raúl Emilio Ramos; Alejandro Matia Hernández and Hermes Castro; Alberto Agudelo; Jaime and Orlando Hernández; Jaime Antonio Blanquiceth Jaramillo, Rafael Peñate Cabrales, Roberto Montes Vergara and Juan Antonio Solano Suárez; Guillermo León Barrera and Francisco Javier Taborda; Manuel Castillo Ruiseco; Sandra del Pilar Ubate; Angel Trujillo Somagoso; Pedro and Milena Malagón; Jairo Alfonso Gamboa; Reinaldo de Jesús Rios, Norberto Galeano Cuadros, Jesús Antonio Cabal; Diego Márquez Zapata and Ermilda Araque; Gustavo Taborda and Libia Vera; Wilson Patiño; Jorge Eliecer Marín Trujillo; Hector de Jesús Gómez; Margarita Guzmán Restrepo; Diafanor Sánchez; Ramón Jiménez Duarte; Mario Calderón, Elsa Constancia Alvarado and Carlos Alvarado Pantoja; Victor Julio Garzón; Julio Hernando Enríquez; Juan Carlos Herrera Pregonero, Fabian Mauricio Gómez and Andrés David Escobar; Carlos Eduardo Gómez, Luis Alexander González Zulueta, Luis Eduardo Layos and Sandra Elena Rendón Alvárez; Hernán Alonso López and Carlos Mario Betancur Moreno; Humberto Londoño Rivera, Gabriel Parra Alzate, Dario Ceballos, Carlos Posada and Omar Alzate Muñoz; William de Jesús Contreras and Fredy Pérez Carrascal; Isidro Segundo Gil Gil; Luis Elver Villa Sánchez; Mario Augusto Zapata Carvajal and Luis Antonio Barrientos; Gildaro Arias Sosa, Hernán de Jesús Pérez, Jorge Eliecer Rodas Vélez; Uriel Cardona and Alfonso Giraldo Osorio; Fabian Suárez and Gerardo Alzate; Luis Angel Guerra López and Hernando Restrepo; César Augusto Bartolo; José Alberto Restrepo; José Miguel Domico; Juan Coronel; Benjamín Landero Estrada, Carlos Anibal Montes Herrera and Benjamín Landero Arrieta; Dario Covas Contreras, Diomedes Zapata, Rebeca Villareal and Baldomero Vergara Villareal; Gustavo Hernández; Segundo Saboby Urbano and Eber Cano; Toscano family; Dioselino Quiñones; Antonio Maldonada Rangel and Libia Ortega; Fredy García; Félix Guarniza Barragán; Huber Antonio Ascanio, Jesús and Jorge Cardozo Santodomingo, Aurelio Lindarte and Jaime Cárdenas; Ermilo Quintero Tovar, Raúl Gómez Mayorca, José Luis Agudelo Arango and Alfredo Alba; Jaime Lara Vásquez; Francisco Ballesteros García and Marcelino Ballesteros Guevara; Santander Mendoza, Alonso Cabezas, Magnum Murillo, Johny Pájaro and Jaime Palacios; Fabio Fonseca Guerrero; Rafael de Oro Martínez and Germán Dario Ospino; Reinel Valencia and Gelmer Porras; Gerardo Estrada, Marco Antonio Nasner and Alfredo Basante; Eloy Villamizar Contreras; Alvaro Nelson Suárez Gómez and Luis Andelfo Peláez; Jafeth Morales; Alonso Bonilla; José Olmedo Toro Alvárez and Vicente Angulo; Everto Antonio Herrera and Juan López; Luis Antonio Ramírez Hernández, Edilberto Mesa Escalante and Gerardo Alvárez Galvis; Gilberto José Márquez Murillo and Argemiro Manuel Padilla; Luis Enrique Salgado, Emiro Tovar, Everto Tovar, Ovidio Castillo, Daniel Salgado, Feder River and Denny Ruiz; Jesús Eudoro Orjuela Trujillo.

Follow-up of the recommendations made by the Special Rapporteurs on torture and on extrajudicial, summary or arbitrary executions after their visit to the country in 1994

94. On 29 October 1996, the Special Rapporteurs reminded the Colombian Government of the recommendations made after their visit to the country in October 1994 and asked for information on the measures taken to put those recommendations into practice, and in particular on certain specific aspects of them detailed in a questionnaire. On 8 January 1997 the Government replied to this request. During 1997 non-governmental sources provided the Special Rapporteurs with information on the matters which were the subject of the recommendations and the Government's comments. The recommendations, a summary of the Government's reply and a summary of the information received from non-governmental sources are given below. They were transmitted to the Government on 31 October 1997.

95. The Special Rapporteurs "call on the Government to fulfil its obligation under international law to conduct exhaustive and impartial investigations into all allegations of extrajudicial, summary or arbitrary executions and torture, to identify, prosecute and punish those responsible, grant adequate compensation to the victims or their families and take all appropriate measures to prevent the recurrence of such acts" (E/CN.4/1995/111, para. 115).

96. The Government stated that as regards the obligation to compensate victims, Act 288 of 1996 established machinery for the compensation of victims of violations in pursuance of the provisions adopted by certain international bodies, and specifically the Inter-American Commission and the Human Rights Committee. The Act lays down specific obligations for the National Government.

97. Non-governmental sources reported that although Act 288 of 1996 represented an advance in terms of bringing internal machinery into line with international instruments for the protection of human rights, it did not cover the broader issue of redress for violations of human rights as developed in international theory and practice, confining itself solely to the question of economic compensation, without establishing machinery covering, for example, social redress, clearing of the names of the victims and fulfilment of the State's obligation to guarantee the rights to truth and justice. Similarly, Act 288 of 1996 restricted the State's obligation merely to compliance with the recommendations for compensation made by the Inter-American Commission on Human Rights and the Human Rights Committee, excluding the equally binding recommendations that might come from other intergovernmental bodies for the protection of human rights, such as the International Labour Organization or the Committee against Torture.

98. In the matter of civil justice, the Special Rapporteurs recommended among other things the following: "(c) As long as the Regional Justice System exists, the crimes falling under this jurisdiction should be clearly defined ... defendants before regional courts must enjoy full respect for their right to a fair trial. The severe restrictions currently in place, including those affecting the right to habeas corpus ... should be eliminated" (ibid., para. 117).

99. With regard to the regional justice system, the Government stated that the Statutory Act on the Administration of Justice expressly limited the period for which the system was to remain in force: it has to cease operating by 30 June 1999. The same Act originally contained provisions regulating the withholding of the identity of witnesses and the procurator. But the Constitutional Court declared these provisions unenforceable for reasons of form. Nevertheless, in the light of the criticisms, recommendations and suggestions made, the tendency is to reduce the coverage of the regional justice system, the main factors justifying its application being the dangerousness of the accused and the seriousness of the offence. Withholding of the identity of judges and witnesses has been restricted.

100. Non-governmental sources stated that, as a result of the Constitutional Court's decision, the previous rules continued to apply. This makes it easier for members of the forces of law and order to appear as secret witnesses and bring charges before the courts against those they consider their enemies, who are often just social activists.

101. The Special Rapporteurs recommended that "provision should be made for effective protection of persons providing testimony in proceedings involving human rights violations".

102. The Government stated that the Witness Protection Programme of the Procurator's Office operated on a restricted basis, since its requirements were quite strict and few persons were willing to comply with them. Resources continued to be inadequate to meet needs. The Government had made progress in implementing the Special Programme for the Protection of Leaders and Activists of Political, Trade-Union, Social and Human Rights Organizations and of Witnesses. This programme has been assigned to the Ministry of the Interior's Special Administrative Unit for Human Rights.

103. Non-governmental sources stated that the intervention of the Witness Protection Programme of the Procurator's Office in cases of human rights violations had not had very good results. On the few occasions on which the Programme had intervened, its conditions had been very strict, the most difficult one to accept being the protected person's total isolation from his family. Furthermore, witnesses did not have confidence in the protection offered; as victims of human rights violations, their fear when confronted with any State official was understandable. The rigidity of the Programme and the distrust of those eligible for protection generally led to conflict, to the detriment of the latter's security. The central problem with this type of programme is that it is designed for repentant offenders and not for victims of human rights violations. These see themselves as in danger of being treated as suspects or accused persons, since the function of the Procurator's Office is to investigate and accuse, so that it is natural that the victims should not feel confidence in the body responsible for providing them with protection. The coverage of these programmes is very limited and their approach questionable; the tendency is to intervene with regard to the effects of threats to these persons' security, but in the overwhelming majority of cases any investigation of the reasons for these threats or of those responsible for them goes by the board.

104. With regard to the Special Programme of Protection for Leaders and Activists of Political, Trade-Union and Social Organizations, non-governmental sources stated that it had been presented by the National Government to the non-governmental human rights organizations in March 1997. Since that date, security conditions for human rights institutions and their members had been deteriorating badly, with many cases of murder, disappearances, judicial proceedings in which being active in human rights was treated as criminal, threats, exile and enforced departure. These facts are in contrast to the policy followed by the Government since the middle of this year, as exemplified in Presidential Directive 011 of 16 July 1997 and the dialogue initiated between human rights organizations and the National Government through the Ministry of the Interior, the Ministry of Foreign Affairs and the Ministry of Defence, principally on the situation of human rights defenders.

105. Non-governmental sources also stated that Directive 011 recognized the legitimacy of the work of non-governmental human rights organizations, their contribution to democracy and the rule of law, to the prevention of new violations, to efforts to do away with impunity and to redress for victims. It requires public servants to refrain from making offensive or insulting statements against members of such organizations and to give priority to petitions from human rights defenders. The non-governmental organizations recognize the importance of measures of this kind. Nevertheless, in the dialogue opened up with the National Government, they have expressed the view that the measures in question should be more far-reaching and effective. The measures suggested include confronting and eradicating illegal paramilitary groups, dismissing members of the forces of law and order and other State bodies involved in serious human rights violations and putting into effect strategies for the prosecution and punishment of those responsible for threats and attacks against human rights defenders.

106. The Special Rapporteurs recommended, with regard to the military justice system, that a reform of the Code should include the following elements: (a) Clear distinction between those carrying out operational activities and personnel involved in the military judiciary, who should not be part of the normal chain of command; (b) Recomposition of the military tribunals by a corps of legally trained judges; (c) Ensuring that those responsible for the investigation and prosecution of cases are also entirely independent of the normal military hierarchy; (d) Removal of the defence of obedience to superior orders in respect of executions, torture and enforced disappearances; (e) Involvement of the claimant for criminal indemnification (parte civil); (f) Explicitly excluding from military jurisdiction the crimes of extrajudicial, summary or arbitrary execution, torture and enforced disappearance. Furthermore, the organ deciding in conflicts of competence between the civilian and the military justice systems should be composed of independent, impartial and competent judges.

107. The Government notified its decision to submit the reform of the military criminal justice system to the Congress from March 1997. The Government has an official position on the two main points of disagreement: whether or not to delimit the concept of service-related offences and whether or not to restrict the concept of obedience to superior orders as exempting a person from responsibility. With regard to the first question, it opted for not including definitions or normative indications, but to leave the analysis

and definition of whether the offence was service-related or not to the judges. As far as obedience to superior orders is concerned, it will only be possible to invoke this defence when it is based on a lawful order and does not run counter to fundamental rights.

108. Other important advances have also been achieved, such as: establishment of a clear distinction between those carrying out operational activities and personnel involved in the military judiciary, who should not be part of the normal chain of command; technical training for personnel concerned with the tasks of investigating and trying cases; introduction of the accusatorial system; involvement of the claimant for criminal indemnification (partie civil) in the trial; and introduction of a chapter making offences of the most notable violations of international humanitarian law.

109. Non-governmental sources stated that the draft military criminal code presented by the Government reproduced the content of article 221 of the Constitution and excluded its application with regard to serious violations of human rights in the matter of military justice. With regard to obedience to superior orders, the project lays down guidelines to the effect that execution of an order requires that it should be issued with the necessary legal formalities and by a competent authority, but it is not explicit about the duty not to obey express orders that entail human rights violations. As regards the claimant for criminal indemnification (partie civil), his scope for action is strictly limited in trials, because, under article 301 of the draft, he may not oppose decisions and findings that do not relate to his claims for compensation.

110. The same sources said that the conditions in which the draft was being presented had been substantially modified by the Constitutional Court's decision of 5 August 1997 on an application for a ruling of unconstitutionality on various articles in the Military Criminal Code. The decision lays down three rules for the application of military criminal justice. The first is that the application of such justice is restrictive, i.e. confined to offences committed by members of the forces of law and order on active service which are related to that service. The act has to originate in a legitimate activity of the service of the police or the armed forces. Accordingly, if the agent's intention is criminal from the beginning, the case falls within the jurisdiction of the ordinary judicial system. The second rule is that certain offences do not and cannot constitute acts of service and are not within the competence of the military courts, such as crimes against humanity. In these circumstances the case has to be assigned to the ordinary courts, given the total contradiction between the offence and the constitutional functions of the forces of law and order. The third rule is that evidence put forward in the trial has to establish full proof of the relationship with the service. This means that in situations in which there is a doubt as to which is the competent jurisdiction to hear a particular case, the decision will have to be in favour of the ordinary courts, because it will not have been possible to establish fully that the case is an exception.

111. The rules laid down by the Constitutional Court are binding on the country's other judicial authorities. Non-governmental sources, however,

expressed concern regarding its application in this case. This is because, since the decision was handed down, the Government has not taken the necessary action for cases being dealt with by the military criminal justice system which under that decision do not meet the conditions for being dealt with by the military courts to be referred to the Office of the Attorney-General or to the ordinary courts.

112. The Special Rapporteurs recommended the establishment of a mechanism which could contribute to providing justice for the past.

113. The Government stated that it had played an active part in the friendly settlement processes under way through the Inter-American Commission, also mentioning some of the progress made in the cases of Trujillo, Uvos, Caloto and Villatina.

114. Non-governmental sources recognized the importance of the mechanism of commissions of inquiry. They stated, however, that with regard to the clearing up of cases, punishment of the culprits and social redress for the victims of violations involved in the cases covered by this mechanism, progress was minimal. None of the judicial inquiries had reached a conclusion.

115. The Special Rapporteurs recommended taking effective action as a priority to disarm and dismantle paramilitary groups.

116. The Government said that the activities of groups dispensing private justice had been condemned by the highest government authorities. The Attorney-General had made it one of his priorities to put an end to impunity for acts committed by these groups. The Human Rights Unit was at present concerned with 29 investigations in this area and had issued arrest warrants for members of those groups.

117. Non-governmental sources stated that since the beginning of 1997, activity by paramilitary groups had spread over the whole country. In the course of their activities they had committed serious violations, involving executions, enforced disappearances and torture, with terrible cruelty and no discrimination as to the condition of the victims. This had also led to the displacement of entire populations. To this was added the fact that, as has been characteristic of them ever since they emerged, they conduct their activities in highly militarized areas and there are no reports of any clashes with the forces of law and order. In some cases, joint action with the army has even been reported.

118. According to these sources, the National Government's attitude to these groups is permissive, in that it has not adopted policies to combat them. There is also said to be a trend towards legitimizing such groups, with the establishment and promotion of the so-called "Convivir". These are organizations of private citizens called upon to provide special services as guards and private security agents, with official authorization to use weapons whose use is confined to the forces of law and order. Although the rules are not clear with regard to the delimitation of these organizations' activities, they have been officially described as performing intelligence work in zones of armed conflict, which helps the army to fight the guerrillas. This means

that a strictly military function is being delegated to private citizens, which is contrary to the Constitution, according to which such functions can only be performed by the armed forces and the police. An application to have the decree establishing them declared unconstitutional is at present under consideration in the Constitutional Court.

119. In 1997 there has been vigorous activity by these groups in the municipalities of Yondó, Dadeiba, Remedios and Santa Rosa de Osos, Antioquia Department; Carmen de Bolívar, Río Viejo and Tiquisio Nuevo, Bolívar Department; Milán, Caquetá Department; La Jagua de Ibirico, El Copey and La Paz, César Department; Riosucio, Chocó Department; Abrego, Norte de Santander Department and Mapiripán, Meta Department.

120. The Special Rapporteurs recommended the adoption of measures to protect those at risk of "social cleansing" killings, in particular street children.

121. The Government stated that the Social Solidarity Network of the Presidency of the Republic was carrying out a special programme for promoting the rights of street dwellers and protecting them in 12 cities. Work was at present in progress in an inter-agency committee which was seeking to strengthen the programme of care for minors and young people living in the street.

122. Non-governmental sources reported that between October 1995 and September 1996, 314 persons had been killed as a result of violence against members of marginal groups. In nearly 40 per cent of the cases the culprits were unknown. Of the remainder, paramilitary groups were the main culprits, representing some 57 per cent of cases. In addition, they were held to be responsible for 15 of the 24 collective executions of members of marginal groups. Guerrilla forces were held responsible for 2.5 per cent of cases and officers of the forces of law and order for 1.3 per cent. Sixty per cent of these executions were carried out in the country's six leading cities (Medellín, Barranquilla, Bogotá, Cartagena, Cali and Cúcuta).

Observations

123. The Special Rapporteur is grateful to the Government for the replies transmitted concerning complaints of violations of the right to life and regrets the fact that owing to the lack of human and material resources available to him, he has not been able to give them adequate follow-up. The Special Rapporteur remains deeply concerned by the massive number of complaints he continues to receive and considers that this circumstance makes it evident that despite the Government's intention to improve the situation with regard to the right to life in Colombia, it is still alarming. He is particularly concerned at the threats to and killings of human rights defenders.

124. Owing to the high number of complaints and the limited resources available to him, the Special Rapporteur considers that the situation cannot continue to be examined solely under a thematic mandate, but warrants the appointment of a special rapporteur on the country, who would work directly with the Office of the High Commissioner in the field and would report to the Commission on the human rights situation in Colombia.

Comoros

Information received

125. According to information received by the Special Rapporteur, Mr. Mohamed Saidali, alias "Robin", found guilty of armed robbery and sentenced to death at Moroni on 20 September 1996, was executed on 29 May 1997. The previous year, the Rapporteur had sent an urgent appeal requesting the authorities to ensure respect for the right to life of Mr. Robin and three other persons under death sentence, Mr. Mohammed Sahali, Mr. Machallah and Mr. Youssouf Hamadi (not identified at the time the urgent appeal was sent). According to information received, Mr. Robin is the second Comorian to have been executed without being able to exercise his right to apply to a court of appeal. No reply from the Government to the urgent appeal sent in 1996 has been received by the Special Rapporteur to date.

Congo

Information received and communications sent

126. According to information received by the Special Rapporteur, extrajudicial, summary or arbitrary executions have taken place on a large scale in the course of conflicts between the supporters of President Pascal Lissouba and those of President Denis Sassou Nguesso.

127. On 9 July 1997, the Special Rapporteur sent a letter to Mr. Ralph Zacklin, Acting Deputy High Commissioner for Human Rights/Centre for Human Rights, drawing his attention to the explosive situation prevailing in Congo-Brazzaville since 5 June 1997. He had also received allegations of indiscriminate bombing of popular neighbourhoods in Brazzaville and summary executions of civilians and combatants.

Observations

128. The end of the civil war situation in the Congo should not mean impunity for the many summary executions and humanitarian law violations which have occurred there. The authorities should investigate allegations of violations of the right to life, identifying the offenders and bringing them to trial, and should offer compensation to victims' families. Lasting peace will only be built on a foundation of truth, justice and solidarity.

Costa Rica

Information received and communications sent

129. The Special Rapporteur transmitted an urgent appeal on behalf of Reina Zelaya and her three daughters, Honduran nationals granted asylum in Costa Rica, having received information that they were still being subjected to harassment and threats, allegedly by members of the Honduran security forces. In September 1996, the Special Rapporteur had already transmitted an urgent appeal requesting measures to protect their physical integrity and right to life. The threats might be related to the fact that the father of two of Reina Zalaya's daughters, Florencio Caballero, a former member of

Honduran Military Intelligence Battalion 3-16, had given evidence during investigations into human rights violations in Honduras (10 January 1997). The Special Rapporteur transmitted the same urgent appeal to the Honduran authorities.

Communications received

130. The Government of Costa Rica informed the Special Rapporteur that Reina Zelaya and her daughters had entered Costa Rica on 28 February 1996. On 28 June 1996, they were granted refugee status. According to the report, on 9 September 1996, Reina Zelaya lodged a complaint before the Office of the Ombudsman. An investigation was initiated to establish the facts. Despite various inquiries, it could not be proved that Honduran military agents were operating in Costa Rica. The Government told the Special Rapporteur that Reina Zelaya was not entitled to approach an international human rights body, since domestic remedies had not been exhausted, and also since those allegedly responsible for the harassment were not of Costa Rican origin (17 March 1997).

131. The Special Rapporteur was subsequently informed that Reina Zelaya and her daughters had been resettled in Sweden in February 1997 (28 October 1997).

Observations

132. The Special Rapporteur wishes to thank the Government for its replies in the case of Reina Zelaya. He would like to point out that States have an obligation to protect the right to life of all persons on their territory and under their jurisdiction. He would also like to remind the Government that the purpose of transmitting an urgent appeal is to prevent irreparable loss of the right to life. The Special Rapporteur therefore transmits urgent appeals regardless of whether the remedies of domestic jurisdiction have been exhausted or not.

Cuba

Information received and communications sent

133. The Special Rapporteur transmitted complaints to the Government concerning the violation of the right to life of Armando Alejandre, Carlos Costa, Mario de la Peña and Pablo Morales, who were killed on 24 February 1996, when two civilian light aircraft they were flying were shot down by two Cuban air force planes. It had been reported that when the light aircraft, belonging to the organization Hermanos al Rescate, were brought down, they were flying in international airspace.

Communications received

134. According to the Government of Cuba, the above cases do not fall within the Special Rapporteur's sphere of competence and lie outside the mandate given by the Commission on Human Rights. According to the Government, "the shooting down, as an act of legitimate defence, of two small pirate aircraft bearing United States registration marks within Cuban airspace" does not constitute extrajudicial, summary or arbitrary execution (29 August 1997).

Observations

135. The Special Rapporteur expresses his thanks for the reply provided by the Government of Cuba and its willingness to cooperate with the mandate. As in previous years, the Special Rapporteur wishes to point out that the communications sent to the Government do not lose their character of complaints and that all complaints reaching his office are analysed in the same spirit of impartiality. With regard to the Government's comment to the effect that the Special Rapporteur is straying outside the mandate conferred by the Commission, he wishes to remind the Government that the complaints received are analysed and transmitted in accordance with his working methods, which have been approved by the Commission on Human Rights on several occasions. He considers furthermore that the complaints transmitted concerning the shooting down of two civilian light aircraft in international airspace are grave enough for the Government to reply to the Special Rapporteur's questions.

Democratic Republic of the Congo

Information received and communications sent

136. The Special Rapporteur has paid very close attention to recent events in Zaire, which became the Democratic Republic of the Congo on 17 May 1997. As a member of the joint mission requested by the Commission on Human Rights to investigate allegations of massacres and other issues affecting human rights in eastern Zaire since September 1996, the Special Rapporteur has received many allegations concerning violations of the right to life in that country.

137. For a detailed analysis of the situation in the Democratic Republic of the Congo, reference is made to the reports submitted by Mr. Roberto Garretón, Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo (A/52/496 and E/CN.4/1998/65), and to the report of the joint mission charged with investigating allegations of massacres and other human rights violations occurring in eastern Zaire since 1996 (A/51/942).

138. The Special Rapporteur transmitted an urgent appeal to the Government on behalf of Joseph Kanku Pinganay, allegedly sentenced to death on 28 January 1997 by a court martial sitting in Kisangani. He was reportedly accused of spying for the Alliance of Democratic Liberation Forces (AFDL) and allowed only 24 hours to appeal against his sentence (12 February 1997).

139. Jointly with the Special Rapporteur on the situation of human rights in Zaire, the Special Rapporteur transmitted an urgent appeal to the Government concerning 30 to 40 civilians who were allegedly killed on 26 May 1997 at Uvira, in Southern Kivu, by members of the AFDL. The victims were taking part in a peaceful demonstration to protest against the assassination of five persons, who had allegedly been abducted and executed by members of the AFDL (11 June 1997).

140. Jointly with the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, the Special Rapporteur sent a communication to the United Nations High Commissioner for Refugees (HCR). He wished to draw his attention to information received to the effect that

some 300 AFDL soldiers had been sent to the area of Shabunda, in Southern Kivu, for the purpose of monitoring and protecting the repatriation of refugees to Rwanda. In view of the fears expressed by the source, the Special Rapporteur requested the HCR to provide its assessment of the situation and of the measures required to ensure that the AFDL soldiers fulfilled their task of providing protection with no other intention (25 July 1997). On the same day, the Special Rapporteur sent a letter to Mr. Ralph Zacklin, Officer-in-Charge, High Commissioner/Centre for Human Rights, drawing his attention to these ADFL troop movements in Southern Kivu and informing him by the same occasion of his communication to HCR.

141. The Special Rapporteur transmitted an urgent appeal to the Government on behalf of eight soldiers from the military camp of Badiadingi, east of Kinshasa, who were allegedly sentenced to death on 27 September 1997 after being convicted of mutiny by a military court. They had reportedly demonstrated because their salaries had not been paid. According to the information received, the eight soldiers concerned were not given the opportunity to appeal against the conviction, even though they had applied to President Laurent-Désiré Kabila for mercy. That urgent appeal was sent jointly with the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo (29 October 1997).

Communications received

142. The HCR transmitted a reply to the Special Rapporteur, confirming the deployment of some 500 AFDL soldiers in the neighbourhood of Shabunda and the fears expressed regarding the life and physical integrity of refugees present in the area. The HCR informed the Special Rapporteur that the arrival of the troops was reported to have spread fear among refugees in the Shabunda transit camp, which the majority were said to have left to return to the forest. The HCR also informed the Special Rapporteur that no allegation of harassment or "ethnic cleansing" of refugees by soldiers had been received to date (7 August 1997).

143. Mr. Zacklin, Officer-in-Charge, High Commissioner/Centre for Human Rights, acknowledged receipt of the letter transmitted by the Special Rapporteur concerning the situation of refugees in the area of Shabinda. He expressed concern regarding developments in the region and undertook to bear the situation in mind in future contacts with the Government.

Observations

144. The Special Rapporteur is concerned at the persistent obstacles raised by the Congolese authorities to the holding of full, independent and impartial investigations into grave allegations of massacres or even genocide which have been brought to his attention. There can be no just and lasting peace or real security based on impunity and concealment of the truth. The entitlement of victims and their families to justice and to reparation has to be recognized if the cycle of violence which regularly shakes the Congo is to be broken.

Ecuador

145. The Special Rapporteur transmitted complaints concerning violations of the right to life of the following persons: Mariana Pozo, killed on 21 January 1996 in Atuntaqui, Imbabura, by a gunshot fired by a police officer; Juan Jiménez, Vicente Gargas and Carlos Obregón, detainees at the prison of Litoral, Guayaquil, who were killed on 26 January 1997 when fired upon by police as they tried to escape from the prison. The Special Rapporteur was informed that the prisoners had been captured alive.

Egypt

Information received and communications sent

146. The Special Rapporteur continued to receive numerous reports on death penalties imposed on civilians by military courts after proceedings which reportedly fell short of international fair trial standards and, in particular, of article 14 of the International Covenant on Civil and Political Rights, ratified by Egypt. According to the information received, sentences in criminal cases, including death sentences, are passed to the Mufti, the highest religious authority, for approval, then submitted to the President for ratification and subsequently reviewed by the Military Appeals Bureau, a non-judicial body headed by the President. Furthermore, the impartiality and independence of military tribunals continued to be questioned, as military judges are serving military officers appointed by the Ministry of Defence for a two-year term, renewable for additional terms of two years at the discretion of the Minister. It was further reported that since October 1992, when the President began issuing special decrees referring civilians to trials before military courts, 81 persons charged with terrorist offences have been sentenced to death and 54 executions have been carried out.

147. In addition, it was again brought to the Special Rapporteur's attention that proceedings before criminal courts, which may lead to the imposition of the death penalty, also do not conform to international fair trial standards, as final verdicts can only be appealed against before the Court of Cassation when it can be proved that there were procedural irregularities in the trial.

148. The Special Rapporteur transmitted an urgent appeal to the Government on behalf of Mostafa Mohammad Mahmoud 'Eissa, Al-Numeiry Ramadhan Sayyid Ahmad, 'Abel 'Abd al-Ghani 'Abd al-Rahman, Mounir Mostafa 'Abd al-Hafiz and 'Abd al-Hamid Abu 'Aqrab. It was reported that after they had been sentenced to death on 2 December 1996 by the (Emergency) Supreme State Security Court, a special court, in Cairo, their sentences were reportedly approved by the Mufti and were then passed on to the President for ratification. It was brought to the Special Rapporteur's attention that during the trial defence lawyers had claimed that the defendants had been tortured and had requested the court not to admit as evidence the statements given during police interrogation. It was reported that the lawyers' request had been disregarded by the court and that no investigations into the allegations of torture were initiated. Moreover, it was reported that there had been no right to appeal the verdict of the (Emergency) Supreme State Security Court (13 January 1997).

Communications received

149. The Government provided the Special Rapporteur with a reply to the urgent appeal sent on 13 January 1997 as well as to various cases transmitted during 1995 and 1996. In response to the urgent appeal sent on behalf of Mostafa Mohammad Mahmoud 'Eissa, Al-Numeiry Ramadhan Sayyid Ahmad, 'Abel 'Abd al-Ghani 'Abd al-Rahman, Mounir Mostafa 'Abd al-Hafiz and 'Abd al-Hamid Abu 'Aqrab, the Government affirmed that theirs could not be considered arbitrary executions, as a legal judgement had been handed down by a court which had respected all the guarantees of a fair trial.

150. With regard to the case of Muhsin Muhammad Awwad Hassan, who allegedly died in detention and was buried without his body having been inspected, the Government stated that he had died after falling into a diabetic coma, and as there was no reason to suspect a criminal act, the case was closed. In response to the cases of Ahmad Amin Abdel Moneim Hussein, Ahmad Amin Abdel Moneim Hussein, Al-Amir Muhammad Husni Umar, Mustafa Muhammad Muhammad al-Iraqi and Muhammad Saad Ali Ahmad, who reportedly died in custody as a result of torture, the Government informed the Special Rapporteur that they had died of natural causes and that the Department of Public Prosecutions had closed their cases since there were no reasons to suspect criminal acts (13 March 1997).

151. The Special Rapporteur was also informed that replies to other alleged violations of the right to life would be transmitted to him immediately upon receipt (24 March 1997).

Observations

152. The Special Rapporteur continues to be concerned at deaths in custody and the imposition of death penalties after trials before criminal and military courts reported to fall short of the international fair trial standards. The Special Rapporteur agrees with the Human Rights Committee that the imposition of a death penalty on a person whose right to a fair trial has been violated constitutes a violation of his right to life and of article 6 of the International Covenant on Civil and Political Rights.

153. The Special Rapporteur also reiterates his concern that civilians continue to be tried before military courts whose procedures fall short of international fair trial standards, particularly since these courts cannot be considered impartial and independent and the defendants have no right to appeal sentences. The Special Rapporteur calls upon the Government of Egypt to bring its laws into conformity with the International Covenant on Civil and Political Rights.

El Salvador

Information received and communications sent

154. According to information received, paramilitary groups and/or clandestine groups similar to those which were active in the 1980s and early 1990s, have appeared in recent years in El Salvador. These groups, which are allegedly fomenting violence and social unrest in the country, are said to be

acting with the acquiescence of the authorities, despite the fact that their links with the latter may not be as clear as in the past. These groups are said to include the Major Roberto d'Aubuisson Nationalist Force (FURODA), which emerged in June 1996 and is said to have made threats against public figures, journalists and religious leaders. Another group, called Sombra Negra, is reported to have appeared in December 1994, with the avowed objective of combating crime and acting as a social cleansing squad. Although it is not known who the members of this group are, several sources allege that they are former soldiers, who may be acting with the acquiescence of the National Civil Police (PNC).

155. Sombra Negra is said to be responsible for the deaths, between December 1994 and April 1995, of 17 persons, all allegedly criminals. The Special Rapporteur has also been informed of the existence of other clandestine armed groups, including the Maximiliano Hernández Martínez Organization against Crime, the People United against Crime Movement (PUCD) and the Provisional Anti-Crime Executive Command (CEAT).

156. The Special Rapporteur transmitted complaints to the Government regarding the violation of the right to life of José Fidel Córdova, aged 16, Jairo Jonathan Hernández Cornejo, aged 15, and Wilfredo Hernández Cornejo, aged 18, whose bodies reportedly appeared in April 1996 in the village of Agua Caliente, Platanillo, Quezaltepeque. According to the information received, the perpetrators belong to a paramilitary group.

Communications received

157. The Government of El Salvador provided detailed information concerning the cases transmitted by the Special Rapporteur in 1996 (16 January 1997).

158. The Government reported that the cases of Oscar Nelson Díaz Hernández, David Antonio Aparicio, Andrés Méndez Flores, Pedro Ernesto Herrador Carías, Francisco Leondan Peña and Oscar Anderson Cornejo were still being investigated, but that the persons responsible for their deaths had not yet been identified. With regard to the death of Juan Carlos Calderón Quintanilla it had not been possible to identify those responsible for his death and the case had been shelved.

159. Also with regard to the deaths of Genaro García García, Julio César Fuentes, Francisco Bolaños Torres, Juan Ramón Fuentes, Guillermo Mercedes Fuentes Moya, Santos Cornelio López Sánchez, Boanerges Bladimir Bernal Deral, Fernando Lemus and Eustaquio Fuentes Mendoza, the Government reported that investigations were continuing and that officers of the National Civil Police had been identified as the likely culprits. Investigations were also continuing in the case of Daniel Alfonso Benítez Guzmán, in which soldiers of the armed forces had been identified as the likely culprits.

160. In the case of Héctor Rafael Paz de Paz, the person accused of his death, an officer of the municipal police of Nueva San Salvador (Cuerpo de Agentes metropolitanos) received a sentence of 20 years' imprisonment. He was also sentenced to pay relatives of the deceased the sum of 10,000 colones. In

the case of Victor Silverio Alvarenga, a sergeant in the National Civil Police based in Aguilares had been charged and ordered to be placed in custody in December 1995.

161. The Special Rapporteur was informed that the person accused of the death of José Israel Mejía, an officer of the National Civil Police of San Luis La Herradura, had been tried and acquitted. It was also reported that, in the case of Joel de Jesús Melgar, the person identified as responsible for his death does not belong to any police force or to any other State agency.

162. The Government provided information regarding complaints related to the deaths of José Fidel Córdova, aged 16, Jairo Jonathan Hernández Cornejo, aged 15, and Wilfredo Hernández Cornejo, transmitted to the Government in 1997. Investigations had been completed by the Criminal Court of the Judicial District of Quezaltepeque, but for the time being no person or group had been identified specifically as being responsible for the deaths. It was stated that, in view of the seriousness of the case, if those responsible could be identified, they would be subject to criminal prosecution (25 September 1997 and 9 October 1997).

Observations

163. The Special Rapporteur wishes to thank the Government of El Salvador for its willingness to cooperate with his mandate by supplying detailed information concerning the complaints transmitted. He urges the authorities to continue conducting full, impartial investigations into the complaints of violations of the right to life, in order to identify those responsible and bring them to trial, while providing due compensation for the victims and taking the necessary steps to ensure that such violations do not recur in future.

Ethiopia

Information received and communications sent

164. It was brought to the Special Rapporteur's attention that extrajudicial, summary or arbitrary executions, as well as other human rights violations, occurred on a regular basis in secret detention centres, of which the Government reportedly denies the existence.

165. In this context, the Special Rapporteur sent an urgent appeal together with the Special Rapporteur on the question of torture on behalf of the detainees alleged to be held in 23 secret detention centres in Deder district, mainly on the suspicion of supporting the Oromo Liberation Front, as well as on behalf of some 300 persons held at Harrar prison, most of them farmers, after reports had been received expressing fear for their lives or physical and mental integrity. The source of the information indicated that the following persons had already been killed during their detention in Deder district: Shekim Ahmed Dawid, Awel Mohamed, Hamza Mohamed, Ahmed Abdullahi, Ahmed Adem, Dr. Mokonnen Baye, Aliyyi Mume, Mohamed Haji Ahmed, Jafar Ahmed, Aliyyi Mussa, Hanna Hunde (female), Gemechu Iticha, Dita Mume (female), Abdurazak Ahmed Mume (8 November 1996).

166. The Special Rapporteur also sent allegations regarding the death in custody of the following four persons:

(a) Shiferaw Mekonnen, who reportedly died on 19 December 1996 as a consequence of injuries resulting from torture which he sustained in custody in Dita Dara;

(b) Waqjira Fullaas Ayyansaa, who reportedly died on 3 October 1996 as a result of torture while being detained in Ambo prison in western Showa;

(c) Haji Ibrahim Hussein, who reportedly died on 12 September 1996 in detention in Robe, Bale, as a result of torture;

(d) Yadessa Lencha, who reportedly died in July 1997 as a result of torture while being detained in Gimbi prison in western Wollega.

167. Moreover, the Special Rapporteur sent an allegation regarding the violation of the right to life of Gurmessa Ale, who was reportedly killed on 1 September 1996 by armed men belonging to the Ethiopian People's Revolutionary Democratic Front (EPRDF) in Kolli village, Anfilo district, western Wollega. It was reported that those responsible were surrounded by villagers who escorted them to Mugi town police station, where, according to the information received, they were released immediately.

Communications received

168. In response to the Special Rapporteur's urgent appeal sent jointly with the Special Rapporteur on the question of torture on 8 November 1996 on behalf of detainees held in what were alleged to be 23 secret detention centres in Deder district, the Government informed the Special Rapporteur that the Regional Administration affirmed that there are no secret detention centres in Deder district, the only places of detention being one prison, one police station and one sub-police station in Kobo town. The Special Rapporteur was also informed of the following: Gemechu Iticha was reported to have lived in the Deder area until he answered the mobilization call made by the Oromo Liberation Front and that no adverse action was taken against him by the Government; a warrant of arrest was issued for Dita Mume, who is accused of murder but still at large; Sheikh Ahmed Dawid was detained on charges of murder; Ahmed Adem was a resident of Melka Belo Wereda and leading a normal life; Hanna Hunde, who was a lieutenant, was killed at Legebaba in a conflict with the Oromo Liberation Front after he had left the Government; Aliyi Mume is alive in Kombocha Wereda; and Aliyi Mussa was arrested in connection with the investigation of a murder (29 January 1997).

169. In regard to the case of Bekelle Argaw, who was reportedly killed by soldiers on 26 September 1994, the Government informed the Special Rapporteur that he was killed by three unidentified gunmen and that the case was still under investigation (18 November 1996).

Follow-up

170. The Special Rapporteur sent a follow-up communication to the Government requesting further clarification with regard to the case of Bekele Arega, in particular whether perpetrators had been identified and investigations finalized.

Observations

171. The Special Rapporteur wishes to thank the Government for the replies provided. He would, however, like to note his concern over the alleged deaths in custody brought to his attention. The Special Rapporteur calls on the Government to take all necessary measures to ensure the right to life of all persons detained or imprisoned, in accordance with the Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

France

Communications received

172. The Government has replied to allegations transmitted by the Special Rapporteur in 1995 and 1996. In the case of Makomé M'Bowole, a 17-year-old Zairian who died on 6 April 1993 while being interrogated at the Grandes Carrières police station in the eighteenth *arrondissement* of Paris, the Government reported that the Paris Court of Assize had sentenced Pascal Bompain, police inspector, on 15 February 1996 to eight years' imprisonment for inflicting fatal injuries with use or threatened use of a weapon on the person of Makomé M'Bowole. Relatives had received compensation of 165,000 francs (4 February 1997).

173. With regard to the death of Reza Mazlouman, Iranian opposition publisher, allegedly killed in his apartment in the Paris region on 28 May 1996, the Government informed the Special Rapporteur that an information had been laid before the court against an unknown person for assassination related to a terrorist organization. The inquiry had been placed in the hands of Mr. Jean-Louis Bruguière, first Vice-President in charge of investigation at the Paris Court of Major Jurisdiction (14 November 1996).

174. The Government has informed the Special Rapporteur that the cases of Romuald Duriez and Mourad Tchier are under investigation. It said the case of Mr. Moret was under investigation with a view to establishing that the action of the gendarmerie had been in compliance with the legal provisions regarding the use of weapons. The French authorities on that occasion rejected the allegation of an extrajudicial, summary or arbitrary execution (6 December 1996).

Follow-up

175. The Special Rapporteur thanked the French Government for its replies and requested further clarifications regarding the death of Mr. Mazlouman, including the results of the investigation, the identification, if any, of those responsible and whether they had been brought to trial. The Special Rapporteur also asked on what grounds the French Government had asserted that in the case of Frank Moret, killed on 25 July 1993 when a gendarmerie officer

fired on his car, the action of the gendarmerie had been in compliance with the legal provisions regarding the use of weapons. He therefore requested information from the Government concerning the progress made with the investigation and any disciplinary or penal sanctions applied.

176. With regard to Romuald Duriez and Mourad Tchier, the Special Rapporteur asked for the results of the investigation and whether any disciplinary measures had been taken against the police officers concerned. He also asked whether the parties had received compensation.

Observations

177. The Special Rapporteur wishes to thank the French Government for the information supplied. He welcomes the sentence passed on the person responsible for the death of Makomé M'Bowole and the compensation awarded to his family. He hopes that the facts surrounding the deaths of Frank Moret, Romuald Duriez, Mourad Tchier and Dr. Reza Mazlouman will be brought to light.

Gambia

Information received and communications sent

178. The Special Rapporteur transmitted an urgent appeal to the Government on behalf of Souleyman Sarr, Mballo Kanteh, Essa Baldeh and Omar Dampha, reportedly sentenced to death on 17 July 1997 by the High Court of Gambia for trying to overthrow the Government, after fears had been expressed that they might be executed before the last day for submission of appeals (17 July 1997).

179. The Special Rapporteur also transmitted the alleged violation of the right to life of Yaya Drammeh, who reportedly died in custody on 25 May 1997 as a result of torture. The Special Rapporteur was informed that he was arrested following an attack by an armed group on the Farafenni military camp, in which six soldiers had died. It was also brought to the Special Rapporteur's attention that government officials had stated that Yaya Drammeh died from septicaemia during a treatment in hospital.

Communications received

180. The Government provided a reply to the case of Yaya Drammeh in which it confirmed that he had died of natural causes, that is of septicaemia complicating a membranous colitis and severe gastro-intestinal haemorrhage. The Government attached, inter alia, the autopsy report and the death certificate (10 October 1997).

Observations

181. The Special Rapporteur notes with regret the imposition of the first sentences of death following its abolition in 1993 and its reinstatement in 1995.

Georgia

Information received and communications sent

182. In relation to the application of the death penalty, it was brought to the Special Rapporteur's attention that in several cases, including the cases of Irakli Dokvadze, Petre Gelbakhiani and Badri Zarandia, death sentences were passed by the Supreme Court of Georgia acting as a court of first instance with the official verdict said to record that the sentence was final and not subject to appeal.

183. In addition, information was received indicating an alarming number of deaths in detention. According to the reports, during 1995 alone, 122 prisoners had died. It was reportedly said officially that tuberculosis had been one of the main causes of death. Inadequate food, unsanitary conditions and lack of medicines were reported to have aggravated the spread of parasitic infections and disease.

184. The Special Rapporteur transmitted an allegation he had received regarding the violation of the right to life of David Amashukeli, who was reportedly beaten to death on 15 December 1996 by members of the police after they had stopped him and his companion, Viktor Morozov, while driving in Tbilisi and required them to be tested for drug abuse. It had equally been reported that three members of the police were arrested in connection with this incident.

Observations

185. The Special Rapporteur expresses his concern at the number of allegations of deaths in custody and calls upon the Government to safeguard the right to life of detainees and to bring conditions of detention into conformity with the Standard Minimum Rules for the Treatment of Prisoners.

Germany

Communications received

186. The Special Rapporteur was informed by the Government that the case of Kola Bankole, a Nigerian national who reportedly died on 30 August 1994 in the aircraft which was to return him to Nigeria after being injected with a sedative, is still subjudice (8 November 1996).

Follow-up

187. The Special Rapporteur sent a follow-up communication to the Government of Germany requesting further clarification with regard to the case of Kola Bankole. The Special Rapporteur expressed in particular his interest in the results of the intermediary proceedings against the emergency doctor treating Kola Bankole, as well as of the main proceedings if applicable. The Special Rapporteur also requested to be informed of the reasons for the rejection of the complaint filed by Mr. Babatonde Bankole on 19 November 1995 against the discontinuing of investigation proceedings concerning officers of the Federal Border Guard.

Guatemala

Information received and communications sent

188. The Special Rapporteur transmitted eight urgent appeals to the Government of Guatemala calling for measures to protect the right to life and physical integrity of the following persons, who had all received death threats from members of the security forces and/or persons connected with those forces, unless specified otherwise:

(a) Members of the community of El Sauce, after the death of one of them caused by security guards acting with the acquiescence of local authorities (5 February 1997);

(b) Gustavo Adolfo Albizures Estrada, Clara Arenas, Helen Mack and other members of the Institute for the Advancement of the Social Sciences in Guatemala (AVANCSO), following death threats (10 March 1997);

(c) Silverio Pérez de León, mayor of Santa Cruz del Quiché and member of the political party New Guatemala Democratic Front (FDNG), following death threats contained in a letter signed by the Jaguar Justiciero death squad, accusing him of supplying food to demobilized members of the Guatemalan National Revolutionary Unit (URNG) (6 May 1997);

(d) María Francisca Ventura Sican and her family, following harassment and intimidation. According to information received, these acts of intimidation are related to the testimony she gave to a delegation of the non-governmental organization Amnesty International, which was visiting Guatemala (12 May 1997);

(e) Alberto Godínez, member of URNG and local leader of the Peasants' Unity Committee (CUC), after being attacked and beaten by six former members of the now dissolved Volunteer Civil Defence Committees (22 May 1997);

(f) Armando Mejía and other employees of Industria Harinera S.A., after being intimidated by security guards on behalf of the owners for the purpose of securing their cooperation in restructuring the factory. The Special Rapporteur was informed that the owners' security guards were at the same time employed by the Public Procurator's Office (29 May 1997);

(g) Felipa Aju, Senyada Cana Chanay and Emeterio Gómez, activists in the Mutual Support Group for Getting Our Relatives Back Alive (GAM), after receiving death threats from members of a civil self-defence group. It was reported that these threats were related to their work of documenting cases of violations of human rights while at the Commission for Historical Clarification, established within the framework of the peace agreements in Guatemala (14 August 1997).

189. The Special Rapporteur also transmitted an urgent appeal on behalf of former policemen Miguel Angel Revolorio Rodríguez, Miguel Angel López Calo and Aníbal Archila Pérez, sentenced to death for the assassination of Luis Pedro Choc Reyna, in February 1995. According to a report, irregularities had occurred in the trial. The identification of the accused had taken place

without the presence of counsel and without judicial supervision. It was also reported that they had not been informed of their rights and that they had been arrested without a warrant (25 July 1997).

190. The Special Rapporteur also transmitted complaints concerning violations of the right to life of the following persons:

(a) Killed by army personnel: Tomás Alonzo Sequén and Jacinto Alonzo Quisque, leaders of the Union of the Mayan People of Guatemala, killed on 21 March 1997 in the community of San Rafael Sumatan, San Pedro Yepocapa, Chimaltenango;

(b) Killed by mobs: the evangelical pastor Erwin de León Soto, killed on 13 November 1996 with three other persons. It is reported that the police of Momostenango, Totonicapan Department, had mistaken them for town bus robbers. According to information received, the four individuals were lynched and burnt by furious mobs;

(c) Minors: Ronald Raúl Ramos, aged 16, killed on 20 September 1996 by a guard in Tecun Uman, San Marcos Department;

(d) Peasants: José Elías Salazar Lorenzo, and Manuel Cho Caal, killed by shots fired by the mayor of Poptun, Petén, when trying to clear his office of a group of peasants who had gone to the town hall to seek information concerning a donation made by the National Peace Foundation (FONAPAZ) for the construction of a road and a school.

191. He also transmitted to the Government a complaint concerning the death of Francisca Pérez Esteban, whose body was allegedly found on 12 April 1997 at her home in the community of Blanca de Ocos, San Marcos. It was reported that those responsible for her death were landowners acting with the acquiescence of the local military authorities.

Communications received

192. The Government of Guatemala supplied information concerning the death of Miguel Us Mejía and Lucía Tui Tum. It reported that the local magistrate's court had initiated proceedings, transferring the case to the District Office of the Public Procurator for the corresponding investigation. After investigation, being unable to bring charges against the suspects, who do not belong to any State security force, the Public Procurator applied to the Second Court of First Instance for Criminal Offences to dismiss the proceedings. The court closed the case (6 November 1996).

193. With regard to the death of Jaime Ernesto Centeno López, it was reported that the proceedings were at the investigation stage. Two individuals have been detained, who are not part of any State security force or body and who belong to a gang operating in the area. The suspects are accused of murder and aggravated robbery, and one of them of improper use of uniforms and badges. Five police officers are also said to be charged with the offences of receiving bribes and concealment, since they had reportedly tried to cover up the offence (11 November 1996).

194. With regard to the death of Pedro Chuc Ruíz, it was reported that pre-trial proceedings were under way and the case was under investigation. According to reports, Pedro Chuc Ruíz was killed by attackers demanding 40,000 quetzales from the family. There are no indications that those responsible for his death were employees of the State (11 November 1996).

195. Further details were also given concerning proceedings in the Xamán case: on 6 June 1996, the Supreme Court decided to suspend the functions of the Second Court of First Instance for Criminal Offences of Cobán, Alta Verapaz, which was dealing with the case. On 14 October 1996, the magistrates of the Twelfth Chamber of the Court of Appeal issued a ruling annulling the substitute measures granted to seven members of the military, ordering them to return to prison (11 November 1996).

196. With regard to the urgent appeal sent by the Special Rapporteur on behalf of Gustavo Adolfo Albizures Estrada, Clara Arenas, Helen Mack and other members of the Institute for the Advancement of the Social Sciences (AVANCSO), the Government reported that investigations had started into the case and that the persons concerned had been granted appropriate security measures (10 April 1997).

197. With regard to the urgent appeal sent on behalf of Alberto Godínez, the Special Rapporteur was informed that the National Police had investigated the incident and that three individuals had been charged and would be brought to trial (16 June 1997).

Observations

198. The Special Rapporteur wishes to thank the Government of Guatemala for its replies. It would urge the Government to conduct full, impartial investigations into complaints of human rights violations, to identify those responsible and bring them to justice, and to provide due compensation for the victims.

Honduras

Information received and communications sent

199. The Special Rapporteur transmitted three urgent appeals on behalf of the following persons:

(a) Reina Zelaya and her three daughters, Honduran nationals granted asylum in Costa Rica, having received information that they continued to be subject to harassment and threats, allegedly by members of the Honduran security forces. The threats might be related to the fact that the father of two of Reina Zelaya's daughters, Florencio Caballero, a former member of Honduran Military Intelligence Batallion 3-16, had given evidence during investigations into human rights violations in Honduras (10 January 1997). The Special Rapporteur transmitted the same urgent appeal to the Costa Rican authorities;

(b) Berta Oliva de Nativí, member of the Committee of Relatives of Disappeared Detainees in Honduras (COFADEH), and Liduvina Hernández, President

of COFADEH, after they had received death threats. The person responsible for one of the calls said he was acting on behalf of a member of the Honduran armed forces (14 April 1997);

(c) Amadeo Pérez, José Romero and Wisla Pérez and other members of the Tolupan indigenous group, after the killing of Adán Romero and Pedro Ramos by landowners, said to be acting with the acquiescence of the local authorities and the army (27 August 1997).

Communications received

200. The Government informed the Special Rapporteur that in the case of threats against Reina Zelaya and her daughters, the Ministry of Foreign Affairs had initiated proceedings before the appropriate judicial authorities for these to begin hearing statements (22 January 1997). The complaints concerning threats against Berta Oliva de Nativí and Liduvina Hernández had also been reported to the judicial authorities with a view to safeguarding their physical integrity (17 April 1997).

201. With regard to the deaths of Adán Romero and Pedro Ramos, the report enclosed a note by the Department for Ethnic Affairs and the Cultural Heritage, stating that the event had been due to a conflict between two indigenous families over personal problems and ownership of land. Nevertheless, the Criminal Investigation Department, the Department of Ethnic Affairs and the competent courts were continuing with their investigations to shed light on the facts and to bring those responsible to court. (8 September 1997).

India

Information received and communications sent

202. The Special Rapporteur received numerous reports concerning violations of the right to life in India, including deliberate killings, deaths in custody and deaths as a result of excessive use of force.

203. In this context, the Special Rapporteur's attention was particularly drawn to reports indicating the existence of a pattern of killings in the State of Manipur. Civilians, including women and children, as well as suspected members of armed opposition groups are reportedly killed by members of the armed forces, many of them allegedly deliberately and arbitrarily. The Armed Forces (Special Powers) Act of 1958 reportedly gives them widespread powers to shoot to kill and protects them from prosecution for any acts carried out under its provisions. The situation is further aggravated by the restrictions placed on access to the region by the Government. The result of this policy is a climate in which security forces are able to use excessive force with impunity.

204. Regarding custodial deaths, it was brought to the Special Rapporteur's attention that the National Human Rights Commission stated on 16 September 1996 that 444 deaths in custody were reported throughout India between April 1995 and March 1996, almost triple the number of custodial deaths reported over the same period in 1994/95. The National Human Rights

Commission reportedly attributed this increase to "a greater honesty in reporting incidents". It was also reported that the National Human Rights Commission frequently recommended payment of compensation to the victims' families in cases of State abuse, but that such recommendations are not binding.

205. During the period under review the Special Rapporteur sent urgent appeals on behalf of:

(a) Three human rights defenders, after fears for their lives had been expressed: T. Puroshotham, a lawyer and joint secretary of the Andhra Pradesh Civil Liberties Committee, after he had been attacked in front of a police station and seriously injured, reportedly by members of the "Green Tigers", a group allegedly set up by the Andhra Pradesh government in concert with the police to counter the activities of human rights defenders who have exposed human rights violations (13 June 1997). This urgent appeal was sent together with the Special Rapporteur on the independence of judges and lawyers; Ghulam Muhammad Bhat, philanthropist and human rights activist, first abducted in May 1997 by Indian para-military troops and subsequently released due to the intercession of the Secretary-General of the United Nations and pressure exerted by international human rights organizations, and then again abducted on 28 July 1997 by soldiers of the Indian army (5 August 1997); Firdous Asime, Director of the Institute of Kashmir Studies, who attended the forty-ninth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in Geneva in 1997. Fears for his life had been expressed since his colleague, Jalil Andrabi, who attended the Sub-Commission in 1995, had reportedly been killed in custody in 1996 and since Ghulam Muhammad Bhat, who also attended the Sub-Commission in 1995, was detained (22 August 1997);

(b) Amarjit Singh Sohal, Rattan Singh and Sarpanch Raghvir Singh, three witnesses in the case of Sarwan Singh, reportedly threatened by members of the police after they had filed affidavits indicating that Sarwan Singh had been tortured in custody (13 January 1997);

(c) Civilians and those suspected to be members of armed opposition groups, in particular in Agartala and Khowai subdivisions of the State of Tripura, after the government of Tripura reportedly issued a statement on 16 February 1997, in the aftermath of killings committed by members of the All Tripura Tiger Force, empowering the armed forces, including the Central Reserve Police Force and the Border Security Force, "to fire upon or otherwise use force even to the causing of death, after due warning of any person acting in contravention of the law or any order in force prohibiting the assembly of five or more persons or carrying of weapons". Fears had been expressed that the official sanction to shoot to kill would lead to excessive use of force by security forces (19 February 1997);

(d) Gantela Vijaya Vardhana Rao and Satuluri Chalapathi Rao, allegedly not represented by a lawyer during pre-trial proceedings and reportedly scheduled to be executed on 18 December 1996 (17 December 1996).

206. The Special Rapporteur also transmitted to the Government the following allegations:

(a) Regarding deaths in custody: Mushtaq Ahmad Lone, who reportedly died in custody on 28 December 1996 after his arrest earlier that day in Soura, Srinagar, by members of the security forces; Piara Singh, who was reported to have died in police custody on 1 August 1995 following his arrest the previous day by members of Sangrur and Mahil Kalan police station to be questioned in connection with a murder investigation; Neikhokim Haokip, Suonkholal Haokip, Ngamminlein Haokip, Satlal, Haokhthang Singson, Sephu Kipgen, Lalpi Kipgen, Minthang Kipgen and Tongmithang Kipgen, reportedly arrested and subsequently killed by members of the Rashtriya Rifles of the Indian Army;

(b) Regarding violations of the right to life as a result of excessive use of force: Shabbir Siddiqui and 22 unidentified members of the Jammu and Kashmir Liberation Front (JKLF), including two minors, reportedly killed on 30 March 1996 by members of the Special Operations Group of the police supported by members of the Border Security Force and the Central Reserve Police Force in a raid on the JKLF's office in Srinagar; Thokchom Netaji, aged 15, reportedly killed on 28 December 1996 by two members of the Rapid Action Police Force of Manipur while they were pursuing two other persons; Oinam Ongbi Amina Devi, female, reportedly killed on 3 May 1996 when members of the security forces, allegedly without any warning, opened fire on her house in Naorem Mayai Leikai, Bishnupur district, Manipur, after a person they had been pursuing fled towards it; Thokchom Imocha Singh, Ningombam Babuni Singh and Sapam Ibocha Singh, reportedly killed on 19 February 1995 in Bashikhong, Manipur, by members of the Central Reserve Police Force who started firing indiscriminately; Aheibam Raghumani, reportedly killed on 14 August 1995 in Eroisemba, Imphal district, Manipur, by members of the Manipur Rifles, allegedly because he did not stop when ordered to halt;

(c) Regarding deliberate killings by security forces of the State: Saikhom Premchand Singh, Angom Devendro Singh, Toijiam Radhebai alias Rajendra Singh, Wangkhem Open Singh, Hijan Khogen Singh alias Boy, Rajkumar Khogen Singh, Zakir Hussein, Momi Riba and Laimayum Pradeep Kumar Sharma, reportedly shot and killed on 7 January 1995 in Manipur by members of the security forces after the latter had been fired at by four youths who subsequently escaped; Irom Ongbi Roma Devi, reportedly shot dead on 19 September 1995 by members of the Central Reserve Police Force in Pungdongbam Makha Leikai, Imphal district, Manipur; Sapam Naotum, reportedly killed on 11 November 1995 by members of the Rapid Action Police Force of the Manipur police when he was travelling on the Uripok-Kanchup road; S. Paisho and Kumar Nepali alias Parshuram Karki, reportedly deliberately shot dead on 11 March 1996 by members of the Assam Rifles stationed at Pol Camp after they had come to reinforce an army post at Huishu, Ukhrul district, Manipur; Ghulam Rasool Sheikh, a human rights defender and editor, whose body was reportedly found near Pampore after he had allegedly been abducted on 20 March 1996 by so-called renegades accompanied by members of the armed forces; Kehtrumayum Ongbi Prabhahmi Devi, reportedly killed on 3 May 1996 during a raid by the Assam Rifles on a complex of houses in Kwakeithel Haorakchambi Soibam Leikai, Imphal district, Manipur, after the latter had allegedly received information that several members of an armed opposition group were taking shelter there; four unidentified persons allegedly killed by members of the armed forces on the outskirts of Srinagar on 24 May 1996; Khutinlei Kom, reportedly killed on 28 August 1996 by members of the Central Reserve Police Force which was allegedly conducting a search

operation in Sagang village, Churachandpur district, Manipur, following an attack on a CPRF post by an armed opposition group; Mohamad Soleiman, reportedly severely beaten and then shot dead by members of the security forces on 30 August 1996 in Kwakta, Bishnupur district, Manipur; Mayanglambam Ibotombi and Thondam Muhindro, two forest officers reportedly shot dead on 26 December 1996 at Keirak Thoubal district, Manipur, by members of a combined team of state police and Indian reserve battalion forces under the command of the Manipur police. The victims had reportedly been mistaken for members of an armed opposition group; Jagsir Singh, reportedly beaten to death on 28 May 1997 in the streets of Bilaspur, Faridkot, by four police officers under the direction of Nihal Singhwal police station.

Communications received

207. The Government acknowledged receipt of the urgent appeal sent on behalf of Amarjit Singh Sohal, Rattan Singh and Sarpanch Raghvir Singh (17 January 1997).

208. The Government also provided a response to the urgent appeal sent by the Special Rapporteur together with the Special Rapporteur on the independence of judges and lawyers on behalf of T. Purushottam, a lawyer based in Andhra Pradesh. In its reply, the Government indicated that T. Purushottam was attacked by unknown individuals, that the case is being investigated and that the Government of India is committed to ensuring that lawyers are able to perform all their professional functions without harassment and to safeguarding adequately the security of lawyers (9 October 1997).

209. Furthermore, the Special Rapporteur received information in response to his urgent appeal sent on 19 February 1997 on behalf of civilians and those suspected to be members of armed opposition groups, in particular in Agartala and Khowai subdivisions of the State of Tripura. He was informed that the large-scale killing of civilians and burning down of their huts since November/December 1996 by militant groups such as the All Tripura Tiger Force and the National Liberation Front of Tripura, created a situation which requires the Government to declare the worst affected areas as "disturbed areas" under the provisions of the Disturbed Areas Act and the Armed Forces (Special Powers) Act so as to restore faith in democratic order and the rule of law and to prevent further loss of life. The Government explained that these measures cannot be interpreted as "shoot to kill" orders and that sufficient checks and balances are present in the legislation to ensure that there is no abuse of authority. The Government also indicated that officers remain bound by all instructions and guidelines issued by the Government regarding the use of force and that special powers can be exercised only in specific circumstances enumerated in the Armed Forces (Special Powers) Act (28 October 1997).

Follow-up

210. In his follow-up communication, the Special Rapporteur requested further clarification with regard to a report he had received which indicated that it had been reported that 444 persons had died in custody throughout India between April 1995 and March 1996. In particular, he asked how many of the deaths in custody had been investigated, how many had led to criminal

proceedings against State officials, the results of such proceedings, as well as whether compensation had been paid. He also requested to be informed whether the number of deaths in custody had led to any review of the conduct of law enforcement officials so as to further strengthen respect for the provisions of the Code of Conduct for Law Enforcement Officials.

Observations

211. The Special Rapporteur is concerned at the considerable number of allegations received regarding deliberate killings and deaths due to excessive use of force, especially in the State of Manipur, as well as deaths in custody. The Special Rapporteur calls upon the Government to investigate allegations regarding violations of the right to life, to bring perpetrators to justice and to compensate the families of the victims. He also urges the Government to ensure that force used by the security forces is, at all times, in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

212. The Special Rapporteur is constrained to conclude that no substantial progress has been made since 1993 with regard to a proposed visit to India. The Special Rapporteur considers an in situ visit to be of great importance in view of persistent allegations of deaths in custody, excessive use of force, impunity and failure to take preventive measures.

Indonesia and East Timor

Information received and communications sent

213. The Special Rapporteur received reports indicating that violations of the right to life continued to occur in East Timor as a result of excessive use of force by police and security forces. For an in-depth analysis of the human rights situation in East Timor, reference is made to the report of the Secretary-General on the situation of human rights in East Timor to the Commission on Human Rights at its fifty-fourth session (E/CN.4/1998/58).

214. The Special Rapporteur transmitted allegations regarding violations of the right to life of the following persons:

(a) Reportedly killed by members of the armed forces: Maumesak, aged 17, Filomeno Ailos, Antonio Malea and Norberto, on 29 October 1996 in Ailete; Manuel Atimeta, on 9 November 1996 between Waihulae and Waguia, Ossu; Monica Guterres, on 9 January 1996 between Liaruca and Ossu; Tomas Sarmento, on 25 September 1996 in Barolau, Manufahi, Same; Fernando Bom, on 30 September 1996 in Soibada; Zeferino Mascarenhas and Marcel Nunes, on 3 October 1996 at Mota Merao, Liaruca; Rui de Jesus, Aniceto and Miguel, on 7 December 1996 in Lepo Bobonaro, Suai; Januario Quintao and Francisco, on 16 June 1997 in Dili; Fernando Lopez, on 8 February 1997 in Beto Barat-Comoro, Dili;

(b) Reportedly killed by members of the police: Andre de Sousa, on 28 April 1996 in Comoro, Dili; Marcos Soares, on 11 June 1996 in Venilale;

(c) Reportedly killed by members of the special armed forces: Jacinto de Sousa Pandal and Luis Xemenes Belo, on 18 September 1996 in the area of Akadira Loibere; David Alex, on 25 June 1997 in Bacau;

(d) Mariano Mendonca, reportedly killed on 4 November 1996 in Berelico, Faturaca, Remexio by a member of the Indonesian Intelligence Service.

215. Furthermore, the Special Rapporteur transmitted to the Government the alleged violation of the right to life of Manuel Soares which occurred in Tanah Abang, Central Jakarta. Manuel Soares, who had reportedly been recruited by the Tiara Foundation - an organization allegedly linked to the military which was reported to recruit hundreds of young East Timorese - was reportedly shot and killed by police.

Communications received

216. The Government provided the Special Rapporteur with a reply to many of the allegations transmitted during 1997, informing the Special Rapporteur that:

(a) The following persons were killed by members of a group or groups seeking to disturb the security and peace in East Timor: Jacinto de Sousa Pandal, Luis Xemenes Belo, Maumesak, Filomeno Ailos, Antonio Malea, Norberto, Manuel Atimeta, Monica Guterres, Zeferino Mascarenhas, Marcel Nunes, Rui de Jesus, Aniceto and Miguel;

(b) The following names either belong to no one or else cannot be found in the areas mentioned: Marcos Soares, Tomas Sarmento, Fernando Bom and Mariano Mendonca.

217. With regard to the case of Andre de Sousa, the Government indicated that he was wrongly killed by a member of the Mobile Police Brigade, and that the latter was tried and found guilty of murder.

218. Regarding the case of Manuel Soares, the Special Rapporteur was informed that he was a notorious gang leader who was killed on 7 June 1996 in Tanah Abang in a rift with another gang (September 1997).

Observations

219. The Special Rapporteur thanks the Government of Indonesia for the reply provided. With regard to the request of the Government to submit its reply in its entirety to the Commission on Human Rights, the Special Rapporteur should like to note that due to the severe limitations which continued to be placed on the length of his report to the Commission on Human Rights, requests of this nature cannot be acceded to.

220. The Special Rapporteur also wishes to express his concern over the number of killings occurring in East Timor. He notes with deep regret that, despite repeated requests, the Government did not provide him with a reaction to the recommendations made upon his visit to Indonesia and East Timor in 1994 (see E/CN.4/1995/61/Add.1, paras. 77-88).

Iran (Islamic Republic of)

Information received and communications sent

221. The Special Rapporteur was informed that between January and September 1997, 137 persons had been executed in Iran, a pace which, if continued until the end of the year, would allegedly again lead to a doubling of the number of executions as compared with the previous year. At the same time, the Special Rapporteur continued to receive reports regarding the imposition of the death penalty on minors as well as for crimes which cannot be considered to be "most serious". Furthermore, the Special Rapporteur continued to receive distressing reports concerning and the lack of procedural safeguards in trials before Islamic Revolutionary Courts leading to the imposition of the death penalty.

222. For an in-depth analysis of the situation of human rights in Iran, the Special Rapporteur refers to the reports of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran (A/52/472 and E/CN.4/1998/59).

223. During the period under review, the Special Rapporteur transmitted urgent appeals on behalf of the following persons:

(a) Dhabihullah Mahrami and Musa Talibi, reportedly sentenced to death for apostasy. According to the information received, they were both sentenced to death because of their religious beliefs, in particular because of their adherence to the Baha'i faith, a minority not recognized in Iran (3 February 1997);

(b) Somayeh Shabazinia and Shahrokh Vosugh, reportedly both aged 16 and sentenced to death for murder (3 March 1997);

(c) Mohammad Assadi, reportedly sentenced to death and confiscation of property at the beginning of March 1997 on charges of, inter alia, an alleged trip to Israel in 1979, membership of the Freemasons and purchases of American agricultural material more than 17 years ago. It was brought to the Special Rapporteur's attention that his trial was unfair, in particular, that the court appointed a lawyer for him after his choice of a lawyer was rejected by the court (4 April 1997). The Special Rapporteur appealed once again to the Government on his behalf after his death sentence had been confirmed by the Supreme Court of Iran (9 June 1997);

(d) Faraj Sarkouhi, writer and editor-in-chief of the monthly Adineh and signatory to the 1994 declaration of 134 writers, an appeal for an end to censorship in Iran. According to the information received, Faraj Sarkouhi was arrested on 27 January 1997 after being held incommunicado for several weeks in November 1996. He was reported to have been tried in a closed trial on a variety of charges, allegedly including espionage, which reportedly carries a mandatory death sentence. It was further alleged that he was not permitted to appoint a lawyer. In addition, according to some sources, a death sentence has already been pronounced. This urgent appeal was

transmitted together with the Special Rapporteurs on the situation of human rights in the Islamic Republic of Iran, on the right to freedom of opinion and expression, and on the independence of judges and lawyers (2 July 1997);

(e) Hossein Dowlatkhah, who was reportedly charged with swindling, corruption and embezzlement, reportedly sentenced to death on 18 June 1997 (14 July 1997).

224. In addition, the Special Rapporteur transmitted allegations of violations of the right to life of the following persons:

(a) Mohammad Bagher Yusefi, a Christian pastor of the Assemblies of God Churches in Mazandaran, reportedly found dead in a forest near Sari, Mazandaran, on 28 September 1996. According to the information received, he was killed by Iranian State agents because he converted from Islam to Christianity;

(b) Ebrahim Zalzadeh, journalist, editor of the monthly magazine Me'yar and manager of the Ebtekar publishing house, reportedly killed by officials of the Ministry of Information. According to the information received, he had disappeared on 23 February 1997 and on 27 March his family was reportedly contacted to collect his body at the Tehran morgue. It was further brought to the Special Rapporteur's attention that Me'yar magazine had been forced to close after it published an article criticizing the Government;

(c) Ahmad Mirala'i, a journalist reportedly found dead in Isfahan, allegedly after having been questioned by security officials;

(d) Ghahreman Habibi, Khdidjeh Mahammadi (female), Bezrouz Avague, Rahman Yaghini, Ali Bed'ati, Fariba Sadegh-Hagh and 21 unidentified persons, reportedly killed in the course of a demonstration in Bonab, East Azerbaijan province. It was alleged that upon arrival the special anti-riot forces immediately opened fire on the demonstrators, killing 27 and wounding at least 80 persons.

Communications received

225. The Government provided a reply to the case of Bagher Yusefi, informing the Special Rapporteur that he had committed suicide. In regard to the case of Ahmad Mir Alaee, the Special Rapporteur was informed that the doctors who conducted the autopsy concluded that he had died of heart failure (12 June 1997).

226. In response to the joint urgent appeal sent on behalf of Faraj Sarkouhi, the Government reported that he was arrested on charges of espionage and attempting to leave the country illegally, that he was neither tried nor convicted, and that he enjoyed all legal rights in conformity with due process of law, including the right to a fair trial and the right to a defence lawyer (16 July 1997).

Observations

227. The Special Rapporteur is gravely concerned at the allegations brought to his attention concerning the imposition of the death penalty in contravention of international norms, including the imposition of the death penalty on minors and for crimes which cannot be considered to be "most serious", as well as in breach of the right to a fair trial. The Special Rapporteur is appalled at the imposition of the death penalty for acts such as holding an opinion or manifesting one's religion or beliefs, rights protected under the International Covenant on Civil and Political Rights ratified by the Islamic Republic of Iran. The Special Rapporteur calls on the Government to respect the International Covenant on Civil and Political Rights as well as all international norms relating to the death penalty.

Iraq

Information received and communications sent

228. The Special Rapporteur addressed an urgent appeal to the Government of Iraq on behalf of 519 children, 245 women and 750 men in the town of Zakho which is in the hands of the Iraqi opposition, requesting the authorities to ensure effective protection of the right to life and physical integrity of these persons. Fears for their lives had been expressed when two alleged members of the Shi'a opposition, Ahmed Muhi Ahmed and Kutaiba Al-Nakib, were reported to have been killed on 9 November 1996 by members of the Iraqi secret service in the town of Duhok. In this context, it was also reported that hundreds of persons, including many members of opposition parties, were killed when security forces entered northern Iraq in September 1996 (12 December 1996).

229. Further to this communication, the Special Rapporteur again sent an urgent appeal to the Government on behalf of the members of the Iraqi opposition in the town of Zakho, then estimated to stand at more than 3,500 persons, when it was brought to his attention that Riyadh Said Bakr had been killed in Zakho by government agents on 14 January 1997. In this appeal, the Special Rapporteur reiterated his concerns and requests as expressed in his urgent appeal of 12 December 1996 (17 January 1997).

230. The Special Rapporteur also sent an urgent appeal on behalf of Humaid Hatef Hamza, Mardan Suwadi Shadhan Muhawish, 'Ali Hussain 'Askar Jabbar, Haidar Muhammad Ni'ma Majhul, Ghali Muhammad Safi 'Abdullah and 'Athra' Subhi Naiyef Saleh (female), who were reportedly sentenced to death on 22 July 1997 by a special court of the Ministry of Interior for being involved in organized prostitution and smuggling alcohol into Saudi Arabia. Trial proceedings of such special courts were reported to fall short of international standards for a fair trial with lawyers being court appointed, trial sessions held in camera and sentences pre-determined. Moreover, sentences issued by such courts can reportedly not be appealed (9 October 1997).

231. Furthermore, the Special Rapporteur sent the Government a copy of a report alleging the violation of the right to life of Hamed Rahmani, a member

of the Mujahedeen Khalq of Iran, who was reportedly killed on 7 March 1996 in Baghdad by Iranian agents. This allegation was also transmitted to the Government of the Islamic Republic of Iran.

232. For an in-depth analysis of the situation of human rights in the country, the Special Rapporteur refers to the reports of the Special Rapporteur on the situation of human rights in Iraq submitted to the General Assembly at its fifty-second session (A/52/476) and to the Commission on Human Rights at its fifty-fourth session (E/CN.4/1998/67).

Communications received

233. The Special Rapporteur received replies from the Government of Iraq in response to the two urgent appeals sent on behalf of members of the opposition in the town of Zakho. In response to the appeal sent on 12 December 1997, the Special Rapporteur was informed that the allegations regarding the execution of Ahmad Mahdi Ahmad and Qutaibi al-Naqib were not true, since no agency of the State was present in any of the northern Iraqi governorates which are under the control of armed Kurdish factions. The Government also indicated that no information was available on the persons living in the town of Zakho, an area outside the control of the central Government. With regard to the allegations concerning the killing of hundreds of persons belonging to the opposition in September 1996, the Government explained that security forces had entered northern Iraq to provide support at the request of one of the principal Kurdish parties and that it was a limited action which did not lead to any noteworthy casualties (28 April 1997).

234. In response to the urgent appeal of 17 January 1997, the Government informed the Special Rapporteur that it had no information concerning Riyadh Said Bakr (20 May 1997).

Israel

Information received and communications sent

235. By way of exception, as these allegations had come to the light only in 1996, the Special Rapporteur transmitted the alleged violations of the right to life of Subhi Abu Jamea and Majdi Abu Jamea, aged 17 and 20 respectively, on 13 April 1984 in the Gaza Strip. It was brought to the Special Rapporteur's attention that Subhi Abu Jamea and Majdi Abu Jamea, responsible for the hijacking of a bus, were reportedly killed after being taken into custody by members of Shabak, the Israeli security services, upon an order given by the head of Shabak. At the time, Israeli authorities had reportedly announced that the two had died as a result of injuries sustained in beatings by Israeli security forces and hostages following their surrender.

Communications received

236. The Government provided a reply to several cases transmitted during 1996. With regard to the case of Abd-Al-Nabi Quanaze, who reportedly died in Keziot Military Detention Centre after having been tortured by other detainees, the Government informed the Special Rapporteur that there was no reason to take measures against the army officers involved because the

activities of the various persons in charge of local security and guarding prisoners had proved to be beyond reproach. Regarding the case of Muhammad Mousa Abu Shaqra, who reportedly died as a result of torture by other inmates in Keziot Military Detention Centre, the Special Rapporteur was informed that the activities of the persons in charge of the prison were found to be beyond reproach and the file was closed as police investigations could not ascertain the person directly responsible for the murder. With regard to the cases of 'Abd Al-Rahman Al-Kilani and 'Adel 'Ayad Yusef Al-Shehetit, who reportedly died in Megiddo Military Detention Centre, the Government affirmed that they were killed by fellow prisoners and that no fault has been found with the actions of the detention facility staff.

237. In regard to these cases, the Special Rapporteur was further informed that prisoners threatened by other prisoners are usually separated but that tighter security would require 24-hour surveillance by soldiers in the detention facilities, which was counter to the interest of allowing prisoners to conduct autonomous lives in the facility (11 February 1997).

Observations

238. The Special Rapporteur is concerned at the deaths which occurred in custody as a result of violent acts committed by fellow prisoners which remained apparently unnoticed by the persons in charge of the security in the detention centres. He is even more concerned that no persons were found to be responsible as no faults were found with the actions of the staff.

239. In this context, the Special Rapporteur should like to note that staff of detention facilities have the duty to protect the right to life of detainees. In accordance with rule 27 of the Standard Minimum Rules for the Treatment of Prisoners "(d)iscipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life". Further, the right of detained persons to be treated with humanity and with respect for the inherent dignity for the human person cannot be understood to include allowing prisoners to conduct "autonomous lives in detention facilities" to the extent that crimes can be committed with impunity within the prison.

Jamaica

Information received and communications sent

240. The Special Rapporteur sent an urgent appeal to the Government of Jamaica after he was informed that the Government had announced its withdrawal from the Optional Protocol to the International Covenant on Civil and Political Rights, which allows individuals who claim that their rights under the Covenant have been violated to petition the Human Rights Committee. It was brought to the Special Rapporteur's attention that the reason for this decision was related to the 1993 ruling of the Judicial Committee of the Privy Council (JCPC) in the case of Earl Pratt and Ivan Morgan, according to which the execution of prisoners who have been on death row for more than five years constitutes inhuman or degrading treatment or punishment. The Government of Jamaica was reported to be facing a situation in which the death sentence

could de facto not be executed, individuals only being allowed to appeal to the Human Rights Committee once domestic remedies had been exhausted and practice showing that the Committee needs between six months and two years to give its views.

241. In his appeal, the Special Rapporteur expressed his deep regret at the decision by the Government and pointed out that by withdrawing from the Optional Protocol, the Government would withhold one additional appeal option from all persons under its jurisdiction claiming to be victims of violations of any rights set forth in the International Covenant on Civil and Political Rights. The Special Rapporteur noted that he was particularly concerned because, with respect to a considerable number of communications filed by persons sentenced to death in Jamaica, the Human Rights Committee had adopted the view that article 14, the right to a fair trial, had been violated. He brought to the Government's attention that the imposition of a death penalty on a person whose right to a fair trial has been violated constitutes a violation of his right to life and of article 6 of the International Covenant on Civil and Political Rights. He also recalled that the Commission on Human Rights, in its resolution 1997/12, called upon all States that had not yet abolished the death penalty to comply fully with their international obligations and to consider suspending executions, with a view to completely abolishing the death penalty. The Special Rapporteur requested the Government to consider finding a solution more compatible with its international obligations to protect the right to life and, in this respect, to reconsider its decision to withdraw from the Optional Protocol.

Jordan

Information received and communications sent

242. The Special Rapporteur sent an urgent appeal on behalf of Montasser Rajab Abu-Zaid, who was reportedly sentenced to death on the basis of a confession obtained while he was held in preventive detention, during which period he was allegedly beaten and deprived of sleep. According to the information received, the court did not order an investigation into these allegations. On 2 March 1997 the death sentence was reportedly confirmed by the Court of Cassation (24 March 1997).

Kazakhstan

Information received and communications sent

243. The Special Rapporteur sent an urgent appeal on behalf of Oleg Gorozashvili, who was reportedly facing imminent execution. According to the information brought to the Special Rapporteur's attention, Oleg Gorozashvili was questioned without the presence of a defence lawyer and was forced to confess to committing a second murder. It was also reported that members of the Clemency Committee revealed that they had not had access to information concerning the alleged violation of judicial procedure in this case (29 January 1997).

Kenya

Information received and communications sent

244. It has been brought to the Special Rapporteur's attention that the Kenyan Human Rights Commission in its quarterly report on the period October to December 1996 stated that 632 persons had died in 1996 in Kenya because of acts of "omission or commission" by the Government, including 180 persons killed by bandits, whom the Commission said the Government has done little to combat, 95 were killed by mobs and 130 were killed by security forces. In respect to those killings alleged to have been committed by the security forces, the Commission reportedly stated that only 12 police officers had been charged and only 2 had been convicted.

245. The Special Rapporteur also continued to receive reports concerning the high number of death occurring in Kenyan prisons. The majority of deaths reportedly resulted from widespread illnesses due to unsanitary conditions, lack of food, lack of sunlight and torture.

246. Furthermore, the Special Rapporteur continued to receive reports of deaths in custody or detention as a result of ill-treatment or torture. In this respect, allegations were transmitted to the Government in regard of the following four persons: Henry Mutua M'Aritho, who reportedly died in custody as a result of torture on 5 May 1996, three days after his arrest by administrative policemen in Nyambene district; Amodoi Achakar Anamilem, who reportedly died on 8 July 1996 in Lokichar, Turkana district, as a result of torture in police custody; Amodoi Lomurodo, who reportedly died on 5 May 1997 while in custody at the Lokichoggio police station allegedly as a result of torture; an unidentified person who was reportedly beaten to death by a warder of Kericho Annex prison after an escape attempt.

247. The Special Rapporteur also transmitted an allegation regarding S.K. Ndungi, a lawyer who was allegedly shot dead by members of the police on 22 April 1997 in Nairobi because, in connection with his work on the case of an armed robbery of the Standard Chartered Bank, he had accused police officials of having kept part of the recovered money for themselves.

Communications received

248. The Special Rapporteur received a reply to the allegations he had transmitted regarding Henry Mutua M'Aritho and Amodoi Achakar Anamilem. In regard to the former, the Special Rapporteur was informed that the responsible police officer had been arrested and charged with murder and that the case would be heard in June 1997. In regard to the case of Amodoi Achakar Anamilem, the Government confirmed that no post mortem investigation could be performed because by the time a doctor was available, the body had decomposed badly, the Lodwar District Hospital mortuary having no refrigeration facilities. The Special Rapporteur was also informed that the Provincial State Counsel at Eldoret had returned the inquest file to the District Criminal Investigation Officer in Lodwar, acknowledging the difficulty of establishing the cause of death in view of the situation and recommending that the file be closed unless tangible evidence incriminating somebody could be presented (6 June 1997).

Observations

249. The Special Rapporteur thanks the Government for the reply provided. In view of the fact that the allegations received by him were very similar to those of previous years, the Special Rapporteur wishes to reiterate his concern regarding the large number of deaths in custody. He once again urges the Government to take all the necessary measures to avoid further deaths in custody and to ensure that prison conditions conform to the norms enshrined in the Standard Minimum Rules for the Treatment of Prisoners, in particular regarding living conditions and medical services.

250. The Special Rapporteur is most concerned about the alleged killing of a lawyer by members of the police and expresses the hope that the perpetrators will be brought to justice.

251. Finally, the Special Rapporteur is concerned by the high number of mob killings of which he is aware and calls upon the Government to take every measure to prevent such crimes, to investigate them promptly, bring the perpetrators to justice and provide compensation to the victims' families.

Lesotho

Information received and communications sent

252. The Special Rapporteur transmitted an allegation to the Government concerning Manti Mosala, Eric Ramatsi Mosala, Thathuoe Skozana Nqatso, Thabang Kobeli and Moeketsi Motuba who had reportedly been killed by members of the police on 14 December 1996 when they stormed a workers' camp at Butha-Buthe in the context of a prolonged labour dispute at the Lesotho Highlands Water Project. According to the information brought to the attention of the Special Rapporteur, police employed excessive force, using tear gas and live ammunition to disperse the workers. Police reportedly continued firing as workers fled the scene.

Observations

253. The Special Rapporteur calls on the Government to ensure that the force used by security forces is, at all times, in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Liberia

Observations

254. The Special Rapporteur welcomes the successful completion of the peace process in Liberia. He regrets, however, that those responsible for human rights violations have not yet been held accountable. The Special Rapporteur notes the importance of truth and justice in the consolidation of peace.

Malawi

Information received and communications sent

255. The Special Rapporteur sent one urgent appeal to the Government of Malawi after he had received information according to which preparations were under way to forcibly return around 765 Rwandese refugees and around 470 refugees from the Democratic Republic of the Congo to their respective country. According to the reports received, despite the fact that the repatriation of the refugees was to be voluntary, the Dzaleka camp, where most of these refugees were living, had been surrounded by Malawian police and roadblocks had been erected to prevent refugees from leaving. It was also reported that refugees who tried to flee in order to escape repatriation had been brought back to the camp forcibly by Malawian police (21 August 1997).

256. The Special Rapporteur also transmitted to the Government an allegation regarding the death in custody of 17 persons who reportedly died in the night of 5 to 6 March 1996 in Lilongwe police station as a result of asphyxiation caused by overcrowding. Investigations were reported to have been promptly initiated.

Communications received

257. In response to the urgent appeal of 21 August 1997, the Government acknowledged receipt and observed that no decision by the Government of Malawi would be taken without adequate consultations with the Office of the United Nations High Commissioner for Refugees (22 August 1997). Consequently, the Government provided a reply to the Special Rapporteur, attaching a UNHCR press release which stated that at no point did the Government of Malawi abandon the voluntary nature of the repatriation exercise. The Special Rapporteur was also informed that, due to a communication breakdown, security personnel had turned up at the refugee camp and, even though they did not interact, had created a general panic in which hundreds of refugees ran away, many of whom have not returned since (13 October 1997).

Observations

258. The Special Rapporteur wishes to thank the Government for the replies provided. The Special Rapporteur welcomes the Government's policy on refugee matters, in particular its cooperation with UNHCR. He further hopes that he will be informed of the outcome of investigations conducted into the deaths in custody which occurred in Lilongwe police station.

Malaysia

Information received and communications sent

259. The Special Rapporteur sent one urgent appeal on behalf of Chu Tak Fai who had reportedly been sentenced to death by the Alor Star High Court on 11 October 1994 for trafficking 2.1 kg of heroin and was reportedly facing imminent execution after the rejection of his appeal on 16 April 1997 by the Court of Appeal in Kuala Lumpur. It was brought to the Special Rapporteur's attention that, according to the Dangerous Drugs Act, any person found in

possession of at least 15 grams of heroin is presumed to be trafficking in the drug, unless the contrary can be proven. The Special Rapporteur expressed his opinion that this partial shift of the burden of proof to the accused does not provide sufficient guarantees for the presumption of innocence and may thus lead to violations of the right to life, in particular since the crime of drug trafficking carries a mandatory death sentence (14 May 1997).

Mexico

Information received and communications sent

260. As in the previous year, the Special Rapporteur has continued to receive reports of harassment, death threats and intimidation against human rights activists, leaders of indigenous organizations, members of political parties, particularly the Democratic Revolutionary Party (PRD), and members of religious communities. According to several sources, the authorities acquiesced in these acts. Cases of threats or intimidation of peasants within the context of anti-guerrilla operations were also reported, particularly in the Sierra Madre region of Chiapas, in the municipalities of Angel Albino Corzo and La Concordia. There were also reports of deaths caused by mobs.

261. The Special Rapporteur sent five urgent appeals, calling upon the authorities to take all necessary measures to protect the lives and ensure the safety of the following persons, who had allegedly received death threats from members of the police and/or security forces unless otherwise stated:

(a) Members and leaders of the Southern Sierra Peasants' Organization (OCSS), following the killing of Gerardo Hurtado Arias, the OCSS leader, by paramilitaries in Tepetixla, State of Guerrero (28 April 1997);

(b) Dr. Gerardo González Figueroa, President of the Coordinating Office of Non-Governmental Organizations for Peace (CONPAZ), in San Cristóbal de las Casas, Chiapas, and other members of the organization, after they had received a series of anonymous death threats by telephone. The threats were apparently motivated by a statement by CONPAZ against the expulsion of international human rights monitors from Mexico (12 May 1997). The Special Rapporteur sent a second urgent appeal on Dr. González Figueroa's behalf after being informed that he had received another telephone call threatening to kill one of his daughters (10 June 1997);

(c) The young children of the Martínez Vargas family, who had witnessed the killing of Silvano Martínez Salinas, Oliva Vargas Carro, Mario Martínez Vargas, aged 14, and María Carro Jiménez, in the village of Emiliano Zapata de Río Grande, municipality of Tututepec, Oaxaca, by two individuals with alleged ties to the local authorities. The victims were members of the PRD (10 June 1997);

(d) María Eugenia Cazares and her family, who had been threatened and intimidated by alleged members of the Judicial Police of Durango, State of Durango. The threats were reportedly motivated by the complaint lodged regarding the rape of her 16-year-old daughter. Upon going to the police station to file the complaint, they had allegedly been detained, threatened

and insulted by police officers. One of the accused was reported to be the son of a local leader of the Institutional Revolutionary Party (PRI). The girl subsequently committed suicide (27 August 1997).

262. The Special Rapporteur has also sent the Government the allegations he received concerning violations of the right to life of the following persons:

(a) Killed by mobs: Enrique Ocampo, Eucario Jiménez Ocampo and Horlando Mendoza Ojeda, who were lynched in Río Chiquito on 1 January 1996 because they were believed to be responsible for the death of a resident of the community; Rodolfo Soler, who was killed in Paso de Aguila on 31 August 1996 by 30 or so men from Tatahuicapan who believed he had murdered his wife;

(b) Killed by police officers: Celerino Jiménez Almaraz, who died on 24 April 1997 in San Mateo Río Hondo, shortly after being detained by Oaxaca judicial police officers; Adrián Sebastián Antonio, who died in December 1996 in San Agustín Loxicha; Fernando González Pérez, Carmen González Gómez, Juan N. and Miguel Gómez Hernández, who died on 14 March 1997 in San Pedro Nixtalucum; Misael Tovar Rodríguez, who died on 19 February 1997 in Conejos, municipality of Tula de Allende; Erick Cárdenas Esqueda, 16 years old, who died on 4 January 1997 in the municipal police cells of Laredo, Tamaulipas, as a result of ill-treatment; Sixto de la Rosa Martínez, whose corpse was reportedly found on 2 May 1997 in Calero de Cofrados, shortly after his detention by judicial police officers from the State of Nayarit; Reyes Penagos, who died on 17 December 1995 in Jaltenango, Chiapas; José López Reyes and Ricardo Rico López, who died on 24 October 1996 in Córdoba, Veracruz; Antonio Torres Estrada, who died in November 1996 in León, Guanajuato, after being beaten; Alejandro Herrera Flores, who died in October 1996 in Morelia, Michoacán, shortly after his detention; Belisario Villegas Perrelleza, Silvestre Bernal and José Mario Payán Beltrán, members of the PRD, who died on 3 December 1996 in León Fonseca, municipality of Sinaloa de Leyva;

(c) Killed by members of the army: Marcial Orbe Zarco, who was killed in Agua Fría on 7 November 1996 by six men in uniform wearing the badges and insignia of the Mexican army and armed with AK-47s; Valentín Carrillo Saldana, an indigenous Tepehua, who died on 12 October 1996 in San Juan Nepomueno; Juan Aceves Cruz, who died on 21 November 1996 in Oaxaca;

(d) Members of the PRD: Guadalupe Valentino López and his wife, Nicasia Hernández Petatan, who were killed in La Montaña, State of Guerrero by unidentified men with alleged ties to the local authorities; Rafael García Santiago, who was killed on 12 September 1996 in the State of Guerrero, reportedly by members of the PRI; Andres López, who was killed on 10 January 1996, in the community of Coyul, municipality of Metlaltonoc, Guerrero, allegedly on the orders of the mayor of the municipality.

263. Allegations were also transmitted concerning the killing of Natalio Gervacio, in September 1996 in the community of Mexcaltepec, Sierra de Atoyac, reportedly by a man acting on the orders of a PRI commissioner from Mexcaltepec.

Communications received

264. The Government of Mexico provided answers to a large number of the complaints transmitted by the Special Rapporteur during 1996 and 1997.

265. Thus regarding the urgent appeal sent on behalf of Rashiy González, the Government provided details of the investigations into the journalist's abduction and reported that Mr. González had never asked for personal protection (5 November 1996 and 19 December 1996). In addition, with regard to the urgent appeal transmitted on behalf of several journalists attending a press conference organized by the Revolutionary People's Army (ERP) it was stated that the Human Rights Commission of the State of Guerrero had not received any complaints relating to these cases. The journalists had not lodged any public complaints or charges with the Procurator's Office, as there were no grounds to do so, since they had never been harassed or threatened by any judicial authorities (12 December 1996).

266. A reply was also furnished regarding the death threats allegedly received by Liliana Flores Benavides, leader of the National Union of Agricultural Producers, Tradesmen, Manufacturers and Service Providers, El Barzón, A.C. According to the Government, investigations had been initiated into the case which was being prepared for submission (12 December 1997).

267. The Government notified the Special Rapporteur that the suspects in the death of Higinio Sánchez Hernández were farmers and tradesmen (12 December 1996). In addition, according to the Attorney-General of the State of Veracruz, the investigations revealed that Fidel Hernández Catarina had not been detained by members of the State Judicial Police. The investigations into his death continue (12 December 1996).

268. An acquittal was handed down for the person accused of the killing of Neftalí Ruiz Ramírez. The public prosecutor had appealed against the acquittal to the Criminal Division of the Supreme Court of Justice of the State of Chiapas, which rendered a final judgement confirming the decision of the Fourth Criminal Court (12 December 1996).

269. Concerning the deaths of Mariano Gómez López and Manuel Gómez López, it was reported that, according to the National Human Rights Commission (CNDH), their bodies were among the 11 corpses buried in Ocosingo, Chiapas; the outcome of the preliminary investigations undertaken both by the Attorney-General of the Republic and by the Military Procurator (19 December 1996) remains pending. By letter of that same date, the Government transmitted a copy of the official record of the removal, description, partial affiliation, and affidavit of the lesions on the corpse of the juvenile José de Jesús Toro Arredondo, as well as of his death certificate.

270. The Special Rapporteur was informed that Artemio Radilla Caro and Benjamín Radilla Caro had died in the course of a confrontation with the State Judicial Police and Public Security Police (25 February 1997).

271. In connection with the urgent appeal sent by the Special Rapporteur in 1996 on behalf of the Jesuit priest Alfredo Zepeda and the lawyer Concepción Hernández Méndez, it was established that, according to the Human Rights Commission of the State of Veracruz, no complaints had been received from the parties and at no time had any public authority or official been involved in any threats; it was rather a matter between individuals (12 March 1997).

272. The Government of Mexico stated that the CNDH and the Human Rights Commission of the State of Guerrero had no records whatsoever of any complaints concerning the deaths of José Reyes Montaño, Andrés Velázquez Nava, Mauro Morales Maganda, Miguel Angel Lázaro Sánchez and Alejandro Pacheco García. The Special Rapporteur was asked for further information (10 April 1997). The Government also requested more information on the cases of Marcial Orbe Zarco, Enrique Ocampo Jiménez, Eucario Jiménez Ocampo and Horlando Mendoza Ojeda (31 July 1997). The Government subsequently indicated that, with regard to the death of Marcial Orbe Zarco, the CNDH was unable to establish that members of the army had been involved, and that it was therefore for the Attorney-General of the State of Guerrero to investigate the facts; preliminary investigations had begun (6 October 1997).

273. At the request of the CNDH, the Government of the State of Chiapas had taken precautionary measures on behalf of CONPAZ (11 and 25 June 1997). Police protection was also given to Gerardo González Figueroa on account of the death threats he had received (17 and 25 June 1997).

274. The deaths of Silvano Martínez Salinas, Oliva Vargas Carro, Mario Martínez Vargas and María Carro Jiménez, in Río Grande, Oaxaca, are still under investigation. However, there is still no information on the alleged intimidation of the family by members of the judicial police, and no evidence to support the idea that their deaths might have been politically motivated (8 September 1997).

275. An arrest warrant and guilty verdict were issued against three persons for the homicide of Rodolfo Soler, who was killed by a mob. It was reported that it appeared from the inquiry to have been members of the family of the woman killed by Rodolfo Soler and other residents of the area, who had initiated the lynching, with the rest of the population witnessing the events but not taking part (8 September 1997).

276. The CNDH stated that Fernando González Pérez, Carmen González Gómez, Juan N., and Miguel Gómez Hernández had died in the course of a confrontation with the State Security Police. Members of the community said they did not want the Commission to intervene, and accordingly the Commission declared the case closed. Nonetheless, the Attorney-General of the State of Chiapas opened a preliminary investigation (2 October 1997). With regard to the death of Misael Tovar Rodríguez, criminal proceedings for homicide and abuse of authority were instituted against two members of the Federal Highway Police (2 October 1997).

277. An army captain was found criminally liable for homicide, and a sergeant for illegal deprivation of liberty and complicity, in the homicide of Valentín Carrillo Saldaña. The proceedings are currently at the pre-trail stage (2 October 1997).

278. With reference to the threats made against María Eugenia Cazares and her family following their complaint concerning the rape of her daughter, on 28 August 1997 the CNDH issued recommendation No. 75/97 to the Governor of the State of Durango, in which it recommended, inter alia, the dismissal of the State Attorney-General and the opening of a preliminary investigation into other public officials from his Office and agents of the Judicial Police. The Commission also recommended compensation of the dead girl's family and execution of the arrest warrants issued by the Second Criminal Court of the State of Durango against the alleged rapists (4 and 14 October 1997).

279. It was not members of the army who were involved in the death of Guadalupe Valentino López and his wife Nicasia Hernández Petatan, but civilians, against whom criminal proceedings have been initiated (6 October 1997). Juan Aceves Cruz died after entering a military installation without permission, and only after personnel from Military Air Base No. 15 had ordered him to stop and fired shots into the air. The incident is being investigated by the Military Procurator of the VIII Military Region in Ixtepec, Oaxaca (6 October 1997). As regards the death of Natalio Gervasio Bello, the CNDH referred the complaint to the Human Rights Commission of the State of Guerrero (6 October 1997).

280. According to the Government, the Attorney-General of the State of Guerrero stated that he had no knowledge of the facts in the case of Gerardo Hurtado Arias. The CNDH and the Human Rights Commission of the State of Guerrero made statements to the same effect (24 October 1997).

Follow-up on the mission to Mexico

281. The Government informed the Special Rapporteur that, with regard to his request to carry out a joint mission with the Special Rapporteur on torture, it had been decided that once the latter completed his mission, the possibility of inviting the former would be considered (2 December 1996).

Observations

282. The Special Rapporteur welcomes the replies transmitted by the Government of Mexico and its willingness to cooperate with his mandate. He remains concerned about the allegations concerning threats to, and intimidation of, human rights activists. As stated previously, although he welcomes the efforts made by the CNDH, he regrets that the recommendations made have not always been implemented and urges the authorities to ensure that they are complied with. He reiterates his interest in carrying out a mission to Mexico.

Myanmar

Information received and communications sent

283. For an in-depth analysis of the human rights situation in the country, the Special Rapporteur refers to the reports submitted by the Special Rapporteur on the situation of human rights in Myanmar to the General Assembly at its fifty-second session (A/52/484) and to the Commission on Human Rights at its fifty-fourth session (E/CN.4/1998/50).

284. The Special Rapporteur transmitted to the Government of Myanmar allegations regarding the violation of the right to life of the following persons:

(a) Reportedly killed by members of the armed forces in attacks on refugee camps in Thailand: Ei Pyin, Ai Pon and U Baw Ga, in or as a result of the attack on Karenni refugee camp No. 2 on 3 January 1997;

(b) Reportedly killed in attacks on refugee camps in Thailand by members of the Democratic Karen Buddhist Army (DKBA), a Karen militia group alleged to be backed by the State Law and Order Restoration Council (SLORC): one unidentified person, reportedly a Thai trader, during the attack on Don Pa Kiang refugee camp on 28 January 1997; one unidentified person in the attack on Hway Kaloke refugee camp on 28 January 1997; Naw Eh G'Lu Pi alias Maw Ywek Mo, during the attack on Mae La (Beh Klaw) refugee camp on 29 January 1997;

(c) Reportedly killed by members of the armed forces: Zai Nyunt, a Shan villager, on 13 November 1996 near Wan Lauy village in Murngkerng township; and Loong Sa, a Shan villager, on 30 October 1996 in Khai Yern village, Wan Keng Tract, Murngkerng township.

Communications received

285. The Government of Myanmar provided a reply to the allegations transmitted by the Special Rapporteur during 1997. With regard to the cases of Ei Pyin, Ai Pon and U Baw Ga, the Government stated that the armed forces of Myanmar never violated the territorial integrity of the neighbouring countries.

286. Regarding the above-mentioned persons who died in attacks by the DKBA on Karen refugee camps in Thailand, the Government referred to a reply of 13 March 1995 in which it described in some detail the situation prevailing in certain areas of the Karen state near the border and in particular the Government's efforts for national reconciliation. The Special Rapporteur was also informed that the Government cannot be held accountable for the behaviour and activities of the Karen National Union (KNU) or its splinter group, the Democratic Kayin Buddhist Organization, armed groups which remain outside the framework of the law.

287. The Special Rapporteur was also informed that the other cases were referred to the authorities in Myanmar (9 July 1997).

Observations

288. The Special Rapporteur thanks the Government for the reply but regrets that it does not address all his concerns. The Special Rapporteur continues to be distressed by the persistent reports of violations of the right to life in the context of attacks on refugee camps in Thailand. The Special Rapporteur urges the authorities to make every effort to ensure that those responsible for these deaths are brought to justice.

Nepal

Information received and communications sent

289. It was brought to the Special Rapporteur's attention that since February 1996, when the Communist Party of Nepal (CPN) formally declared a "people's war", the human rights situation in Nepal has seriously deteriorated. According to the information received, the number of violations of the right to life saw a sharp increase. It was reported that police repeatedly resorted to the use of lethal force in situations where such force was clearly unjustified, and as an alternative to arrest. Furthermore, reports were received of persons who had died as a result of torture or were otherwise killed in police custody.

290. Victims reportedly included persons suspected of being members or sympathizers of the CPN or its political wing, Samyukta Jana Morcha (SJM). Among them are reported to be many members of the Magar tribal community, members of lower Hindu castes, lawyers, teachers and juveniles.

291. The Special Rapporteur is aware that armed activists were also responsible for deliberate killings of civilians declared by them to be "enemies". These included landowners and local politicians of mainstream parties, particularly in the mid-western region.

292. The Special Rapporteur transmitted allegations regarding violations of the right to life of 15 individuals. The following persons:

(a) Reportedly died in custody as a result of torture: Hasta Bahadur Damai, on or around 20 March 1996 in Damai, Jajarkot district, following his arrest in early March 1996; Bhakta Bahadur Sunar, on 26 July 1996 in Tewang, Rolpa district, following his arrest the previous day; Bhanu Pratap Singh Chaudhary, on 30 August 1996 in Halawar VDC-4, Dang district; Dil Bahadur Bhujel, on 4 March 1997 in Surunga, Jhapa district, following his arrest the previous week by forest security personnel;

(b) Reportedly died as a result of excessive use of force by members of the police: Dil Bahadur Ramtel, a 14-year-old student in a school of Ghorks district, shot and killed when police fired into a group of children protesting against the arrest of their headmaster;

(c) Were reportedly deliberately killed by members of the police: Mulman Budha, on 28 March 1996 in Mirul, Rolpa district; Dudh Bahadur Pun, on 30 March 1996 in Kakri, Rukum district; Ganendra Prasad Devkota and Tika Prasad Devkota, on 7 May 1996 in Amale, Sindhuli district; Rabi Khatri Chhetri

on 13 July 1996 in Magma, Rukum district; Dute Budha, Parman Budha, Bir Bahadur Budha and Lal Bahadur Budha, on 10 August 1996 in Jaimkasala, Rolpa district; Karna Bahadur Budha, on 21 October 1996 in Jedwang, Rolpa district.

Observations

293. The Special Rapporteur regrets that at the time of the finalization of the present report, no reply had been received from the Government to the allegations transmitted during 1996 and 1997. The Special Rapporteur should like to express once more his concern about the considerable number of allegations brought to his attention concerning violations of the right to life committed by members of the police. The Special Rapporteur is particularly shocked by the killing of a 14-year-old schoolboy during a demonstration by schoolchildren in support of their headmaster. The Special Rapporteur calls on the Government of Nepal to investigate the allegations, to bring those responsible to justice and to provide compensation to the victims' families. He also calls on the Government to take the necessary steps to prevent future violations in accordance with, inter alia, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Basic Principles for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Nicaragua

Communications received

294. The Government informed the Special Rapporteur that, with regard to the case of Jerónimo Urbina and Ernesto Porfirio Díaz, who died during the course of a demonstration in Managua, an investigative commission had been established on the instructions of the Minister of the Interior and had recommended that the case should be tried by the ordinary courts. Judicial proceedings had been initiated and an interlocutory judgement handed down, with charges dismissed against some of the accused and a temporary stay granted the others, and the police were ordered to continue investigating the case (15 November 1996).

295. With regard to the deaths of Franklin Benito Borge Velásquez and Enrique Montenegro Estrada, charges were filed in the Eighth Criminal District Court of Managua. The criminal proceedings are in the judicial investigation stage (15 November 1996).

296. In relation to the case of the death of 11 members of the "Meza Rearmed Group" in the course of an attack by members of the army, the Special Rapporteur was informed that in May 1995 the charges of homicide and bodily injury had been dismissed. There was no appeal and the case was closed (15 November 1996).

Nigeria

297. For a summary of the communications between the Government of Nigeria and the Special Rapporteur from 1 November 1996 to 4 February 1997, reference is made to the report on the situation of human rights in Nigeria which the

Special Rapporteur submitted together with the Special Rapporteur on the independence of judges and lawyers to the fifty-third session of the Commission on Human Rights (E/CN.4/1997/62 and Add.1).

Information received and communications sent

298. For an in-depth analysis of the human rights situation in the country, the Special Rapporteur refers to the reports submitted by the Special Rapporteur on the situation of human rights in Nigeria to the Commission on Human Rights at its fifty-fourth session (E/CN.4/1998/62).

299. The Special Rapporteur transmitted an allegation which regarded the violation of the right to life of Kudirat Abiola. It was reported that Kudirat Abiola, wife of the politician Chief Moshood Abiola for whose release she was campaigning, was killed in Lagos on 4 June 1996. According to the reports received her killing might have been carried out by members of the State security forces acting with or without the knowledge of the central authorities. It was also brought to the Special Rapporteur's attention that Kudirat Abiola's daughter had publicly stated that prior to her death she had been harassed by members of the State security services. Sources further indicated that on 6 September 1996, the head of the Federal Investigations and Intelligence Bureau said that their investigations had not made any progress due to lack of public cooperation. He was allegedly one of the three senior officers who subsequently retired in a restructuring of the police. According to the information received, no further progress was reported in the investigation of the case.

Communications received

300. In reply to the case of Kudirat Abiola, the Government informed the Special Rapporteur that it considered that the allegation had been transmitted to the Government to justify a statement made by the Special Rapporteur in Port Louis, Mauritius, in October 1996, in which he attributed the death of Kudirat Abiola to government officials (28 March 1997).

301. The Government also provided a reply to an allegation sent during 1996 which concerned 43 persons reportedly publicly executed in Lagos on 22 July 1995 following proceedings which allegedly fell short of international standards for a fair trial. In its response, the Government indicated that the persons concerned had been represented by counsel of their choice, were all found guilty as charged and were thereafter executed. Furthermore, the Special Rapporteur was informed that all had been convicted earlier of armed robbery and sentenced to death. Thirty-eight were tried and sentenced between 1980 and 1992 by the Lagos Armed Robbery and Firearms Tribunal, the judgements in their cases being confirmed by the Government in accordance with the law. The other five had been tried by the Lagos State High Court and had subsequently appealed to the Supreme Court which confirmed the sentences (9 April 1997).

Observations

302. The Special Rapporteur is concerned about the imposition and execution of death sentences after trials reported to fall short of international fair

trial standards. In addition, the Government's unfounded remarks regarding the Special Rapporteur, which were made in its reply to the case of Kudirat Abiola, cannot serve as a justification for not promptly and impartially investigating her case and bringing perpetrators to justice.

Pakistan

Information received and communications sent

303. The Special Rapporteur received information indicating that in Pakistan death sentences may be imposed in trials which are alleged not to meet minimum fair trial standards as laid down in international instruments. Death sentences imposed in trials before Special Courts for the Suppression of Terrorist Activities reportedly fall short of international standards for fair trial insofar as these trials do not proceed from the presumption of innocence. Furthermore, it was reported that by law, women charged with unlawful sexual relations (zina) may be sentenced to the hadd punishment of stoning to death without the women's testimony being taken into account.

304. It was further reported that the Qisas and Diyat Ordinance, first promulgated in September 1990 and then regularly repromulgated, severely limits the possibility of those sentenced to death to have their sentences commuted to life imprisonment. As this ordinance declares void relevant provisions of the Pakistan Penal Code and Code of Criminal Procedure, these codes reportedly now specify that death sentences given as qisas - punishment commensurate to the crime committed - shall not be commuted by the federal or provincial authorities without the consent of the heirs of the victim. It was alleged that this may result in the death penalty being applied arbitrarily as the heirs of the victim may grant mercy in return for compensation, making a compromise settlement more likely for a rich than a poor convict. It was also reported that death sentences imposed as hadd punishments can no longer be commuted by the federal Government or the President as originally provided for in the Code of Criminal Procedure. Lastly, although the Qisas and Diyat Ordinance is reported not to have altered the power of the President under article 45 of the Constitution "to grant pardon, reprieve and respite, and to remit, suspend or commute any sentence passed by any court, tribunal or authority", a 1992 Supreme Court judgement reportedly held that the President had no power to commute death sentences passed as hadd or qisas.

305. In relation to the death penalty, it was further brought to the Special Rapporteur's attention that on 5 June 1995 the federal Government approved a draft bill, the Child Offenders Bill, which reportedly envisages that no person below the age of 16 may be sentenced to death. This bill was reported to be pending before the Parliament.

306. During the past year, the Special Rapporteur also continued to receive numerous allegations regarding violations of the right to life committed by law enforcement officials. Most of the reports received concerned Mohajir Quami Movement (MQM) members, workers or sympathizers who died in custody, often as a result of torture, or in staged armed encounters with the police. In this respect, the Special Rapporteur transmitted the following allegations regarding:

(a) Persons who reportedly died in custody as a result of torture: Mohammad Zaheer, on 1 January 1997 in Landhi police station, Karachi; Mohammad Taufeeq Raza, on 10 October 1996 in Zaman Town police station, Karachi; Mohammad Naeem, on 29 November 1995 in Zaman Town police station, Karachi; Mohammad Anwar, on 12 November 1995 in Garden police station, Karachi; Nazeer Hussein, on 4 November 1995 in Jinnah hospital following his detention in New Karachi police station and Central Jail; Khursheed Anwar, on 2 October 1995; Jameel Ahmed, on 22 September 1995 in Gulbahar police station, Karachi; Taraq Hassan Rizvi, on 1 September 1995; Mohammad Asghar, on 26 June 1996 in Sukkur;

(b) Persons who were reportedly deliberately killed in Karachi by members of the police while in their custody: Tariq Aziz, on 4 April 1996; Zubair Alam, on 1 April 1996; Mohammad Shakir, on 1 April 1996; Hafeez Ahmed, on 31 March 1996; Syed Anwar Ali, on 30 March 1996; Mohammad Armaan, on 4 October 1996; Mohammed Tehsin and Azeen Uddin, on 11 September 1996; Naseem Bihari, on 21 August 1996; Mohammad Farooq, on 5 September 1996; Waseem Ahmed, Javed Ameeruuddin and Wahab, on 27 November 1995; Amir Ali, on 18 October 1995; Mohammad Asif, on 16 October 1995; and Liaquat Ali Abbasi, on 7 October 1995.

307. Furthermore, the Special Rapporteur transmitted an allegation regarding the violation of the right to life of Mir Murtaza Bhutto, Chairman of the Pakistan People's Party, an opposition party, as well as the violation of the right to life of Ashique Husein Jatoi, Yar Mohammed Baloch, Sajjad Haider Gakhro, Wajahat Jokhio, Mohammed Rahim Brohi and Abdul Sattar Rajpar. It was reported that they were killed on 20 September 1996 when they were ambushed by some 100 policemen close to Mir Murtaza Bhutto's home in Karachi. All reportedly died on the spot, except Mir Murtaza Bhutto who was allegedly left bleeding at the site of the incident for approximately 50 minutes before being taken to Mideast hospital where he succumbed to his injuries some hours later.

Observations

308. The Special Rapporteur notes with concern that the Child Offenders Bill envisages the imposition of the death sentence on juveniles as of the age of 16. He should like to bring to the Government's attention that the imposition of the death penalty on children, that is persons below the age of 18 years unless under the applicable law child majority is attained earlier, is in violation of article 37 (a) of the Convention on the Rights of the Child, which has been ratified by Pakistan. Furthermore, it should be noted that the International Covenant on Civil and Political Rights, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The "Beijing Rules") and the Safeguards guaranteeing protection of the rights of those facing the death penalty provide that persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death.

309. Furthermore, the Special Rapporteur regrets that no replies have been received to any of the allegations regarding violations of the right to life transmitted during 1995, 1996 and 1997. The Special Rapporteur remains concerned about the high number of reports received regarding extrajudicial, summary or arbitrary executions, including deaths in custody. The Special Rapporteur calls on the Government to investigate these allegations, to bring

those responsible to justice, to provide compensation to the victims' families and to take the necessary steps to prevent future violations of the right to life.

310. In the light of the high number of allegations brought to the Special Rapporteur's attention, and in the absence of any replies, the Special Rapporteur is also considering a request to the Government for an invitation for an on-site visit to allow him to better evaluate the situation of the right to life.

Panama

Information received and communications sent

311. The Special Rapporteur transmitted an urgent appeal to the Government of Panama on behalf of some 400 peasants and their families, most of them from Unguía, Department of Chocó, Urubá, Colombia, who had fled to Panama in the wake of violent fighting between guerrillas and paramilitary groups. The Special Rapporteur was told that the Panamanian authorities had begun the process of deporting them to Colombia. He asked the Government to take the necessary steps to ensure that, should they be deported to Colombia, their right to life and physical integrity would be guaranteed. The Special Rapporteur also sent the Government of Colombia an urgent appeal to the same effect (5 December 1996).

312. The Special Rapporteur transmitted to the Government of Panama allegations concerning violations of the right to life of the following persons: José Ignacio Acevedo, who died on 24 June 1997, in the municipality of Yape, Pinogana, Darién, and Cipriano García, who was killed in early July 1997 in the municipality of Yaviza, by Colombian paramilitaries. Colombian paramilitaries were reported to have made an incursion into Panamanian territory for the purpose of eliminating guerrilla sympathizers. The Special Rapporteur also transmitted this allegation to the Government of Colombia.

Papua New Guinea

Information received and communications sent

313. The Special Rapporteur's attention was drawn to reports which indicated that a culture of impunity, created by poor discipline and a weak chain of command in the armed forces combined with an unwillingness to hold individuals responsible for their deeds, contributed to the continuation of killings on the island of Bougainville. Moreover, the Papua New Guinea Defence Force (PNGDF) and resistance forces were reported to operate virtually free from public scrutiny because of restrictions imposed on access for independent human rights monitors and the media.

314. The Special Rapporteur received numerous reports of violations of the right to life committed on the island of Bougainville by members of the PNGDF and resistance forces. Allegations transmitted to the Government by the Special Rapporteur concerned the following persons:

(a) Fourteen unidentified persons, including women and two girls aged four and six, reportedly killed on 1 December 1996 in Mukakuru village, Siwai, when members of the PNGDF and the resistance forces opened fire on their camp. Survivors of the attack reportedly claimed that no members of the Bougainville Revolutionary Army (BRA) were present in their village;

(b) Jack, a man who, according to local residents, suffered from a mental illness, reportedly killed on 23 June 1997 when he was cruising around the waters of Buka harbour with a stolen boat after curfew;

(c) Cathy Tomare, aged 4, Nanny Makau, aged 5, Alvina Makunia, aged 6, Brenda Ruinai, aged 14, Cecelia Ruatu (female), John Tuburu, Nicolas Nakei, Albert Makau and Boisi Kauri (female), reportedly killed on 28 November 1996 when the Malapita church in south Bougainville was struck by mortar fire in an attack which was alleged to be indiscriminate;

(d) Theodore Miriung, Premier of the Bougainville Transitional Government, who was extremely helpful during the Special Rapporteur's visit to Bougainville, reportedly killed on 12 October 1996 in Kapana village. It was reported that the preliminary findings of a coroner's inquest into the killing were that members of the PNGDF along with a lesser number of members of the resistance forces were involved in his killing;

(e) Isaiah Magung and Ampo Tarokuru, reportedly killed in May 1996 after they had left the Tonu Care Centre at the Mariga River;

(f) Hubert Oparive and seven unidentified persons, reportedly killed on 19 June 1996 in Sipai. According to the information received, they were accused of collaboration and killed shortly after their arrest by security forces;

(g) John Esi, reportedly killed in early 1996 in Kunua, Bougainville, shortly after his arrest at the Kunua Care Centre by members of the PNGDF.

Observations

315. The Special Rapporteur notes with regret that the Government of Papua New Guinea has not responded to any of the allegations regarding violations of the right to life transmitted by the Special Rapporteur during 1995, 1996 and 1997. Moreover, despite repeated requests, the Government did not provide him with information in regard to the recommendations made in the report of his visit to the country from 21 to 28 October 1995.

316. The Special Rapporteur is concerned about the deterioration of the situation of the right to life on the island of Bougainville and about persistent impunity. He calls on all parties to the conflict to respect at all times the right to life of non-combatants.

Paraguay

Information received and communications sent

317. The Special Rapporteur transmitted the allegation concerning a violation of the right to life of Felipe Pablo Benítez, a member of the Puente Kue Neighbourhood Commission, who was killed on 11 July 1997 by armed men allegedly acting with the acquiescence of the security forces in Caazapa.

Communications received

318. The Government of Paraguay transmitted information concerning the case of Modesto Barreto. It was stated that the Second Rota Criminal Court of First Instance had conducted the investigative proceedings to establish the facts. Three persons had been detained on suspicion of murder, and they did not belong to any official or private institution or body (19 November 1996). In addition, the Government furnished a copy of Act No. 933/96, promulgating the Inter-American Convention on Forced Disappearance of Persons.

Peru

Information received and communications sent

319. The Special Rapporteur received allegations of a general nature concerning the attack by the armed forces on the Embassy of Japan in Lima. According to the information received, the military operation, which rescued 71 hostages, resulted in the deaths of Carlos Giusti Acuña, Supreme Court Judge, two army officers and all the members of the Tupac Amaru Revolutionary Movement (MRTA) guerrilla group. Witnesses were reported to have stated that some members of the MRTA had been captured alive and disarmed and then committed suicide. As to the Supreme Court Judge who died, sources close to the victim reportedly did not know whether there had been an autopsy. It is also not known whether there was an investigation into the events surrounding the attack. Reports indicate that only three of the dead guerrillas were handed over to their families, in sealed coffins, which ruled out any autopsies. The 11 other guerrillas were said to have been buried in secret, with no information given to any of their families.

320. The Special Rapporteur was also informed that the faceless judge system had been abolished in October 1997.

321. The Special Rapporteur transmitted two urgent appeals to the Government of Peru, in which he urged the authorities to take all necessary measures to protect the right to life and physical safety of the following persons:

(a) Javier Díez Canseco, a member of Congress from the United Left party, who was reportedly shot at by a group of heavily armed men as he was driving to Lima international airport. The assailants identified themselves as police officers and released him and the other occupants of the vehicle

(b) Edmundo Cruz, a journalist, and Heriberto Benítez Rivas, defence counsel for an Army Intelligence Service agent allegedly tortured by members of the same service, after receiving death threats (28 April 1997).

322. In addition, the Special Rapporteur transmitted allegations concerning violations of the right to life of the following persons: Mariela Lucy Barreto Riofano, whose body was discovered in Lima on 26 March 1997 and showed signs of torture. The suspects were alleged to have been members of the Army Intelligence Service. The victim had reportedly given the media valuable information on human rights violations committed by the Army Intelligence Service and Grupo Colina; Nicolás Carrión Escobedo, who was killed on 23 August 1996 by members of the army, in the settlement of Uruspampa, Sánchez Carrión, Libertad; and Jorge Chávez Espinoza, who died in August 1996 in Monzón, Huamlies, Huanuco, after being tortured by members of the army.

Communications received

323. The Government referred to the case of Juan Luna Rojas. The Special Rapporteur had transmitted an urgent appeal on his behalf in September 1992, after an attempt had been made to abduct him. The Government reported that the facts had been established and that nothing had been heard from the complainants since 1992. The Government asked that the case be closed (14 February 1997).

324. With reference to the threats against Javier Díez Canseco, a copy was provided of the report prepared by the National Human Rights Council, according to which the facts were being investigated and there was no evidence to prove that the suspects were members of the security forces. The investigations showed that it was a case of common crime (14 February 1997). It was later indicated that the 31st Provincial Procurator of Lima had ordered an extension of the police investigation into the allegations brought by the member of Congress (16 and 18 June 1997).

325. With regard to the death of Mario Palomino García, transmitted to the Government in 1996, the latter reported that the suspects in the case, a lieutenant and three junior officers of the National Police, had been dropped from the force as a disciplinary measure, and were being tried in the 14th Provincial Criminal Court of Lima for the offences of abuse of authority and disobedience. The criminal proceedings are under way (27 May 1997).

326. In addition, with regard to the death of Francisco Díaz Mansilla, the High Council of Military Justice of Peru heard an appeal filed in the homicide trial of a junior officer in the National Police. The case was settled on 8 February 1996 and the accused sentenced to a year in prison (27 May 1997).

327. It was stated that judicial proceedings were under way against a National Police officer for the offence of abuse of authority and the death of Kissinger López Ruiz. The defendant was discharged as a disciplinary measure (4 June 1997). The 11th Criminal Division of the Supreme Court of Lima

328. It was also reported that the High Council of Military Justice had granted amnesty to the person accused of attacking Ulises Espinoza Sánchez and R.P. Fidelius Pezzet and declared the case closed (16 June 1997). The Special Rapporteur had transmitted an urgent appeal on their behalf in April 1994.

329. With regard to the urgent appeal on behalf of Edmundo Cruz and Heriberto Benítez, neither of them was reported to have filed a criminal complaint in connection with the alleged threats against them (16 June 1997).

330. The Special Rapporteur was also informed that, by decree of 4 October 1997, the state of emergency had been extended for a period of 60 days in the provinces of Coronel Portillo and Padre Abad in the Department of Ucayali and the province of Puerta Inca in the Department of Huánuco (22 October 1997).

Observations

331. The Special Rapporteur thanks the Government of Peru for its replies and for its willingness to cooperate with his mandate. Nonetheless, he regrets that the Government has not replied to the allegations concerning the attack on the Japanese Embassy in Lima. He calls on the authorities to undertake the necessary investigations in order to establish whether there was any illegality in the conduct of the armed forces in that connection. He reiterates the obligation of all Governments to investigate alleged violations of the right to life thoroughly and impartially, to identify those responsible and bring them to justice, and to provide appropriate compensation to the families of the victims. He welcomes the decision to end the system of faceless judges, whose ability to guarantee the rights of persons on trial under their jurisdiction had been vigorously questioned.

Philippines

Information received and communications sent

332. The Special Rapporteur transmitted three urgent appeals to the Government of the Philippines. Two urgent appeals were transmitted after the Special Rapporteur had been informed that death threats were received by judges and lawyers in connection with their involvement in the prosecution of police officers in the Kuratong Baleleng case. This case, which was transmitted to the Government by the Special Rapporteur during 1996, involved the killing of 11 suspected bank robbers in May 1995 while in the custody of the police. In both appeals, the Special Rapporteur requested the Government to inform him of investigations carried out by competent authorities and of the steps taken to ensure effective protection of the right to life and physical integrity of the threatened persons.

333. The first urgent appeal was sent on behalf of José Manuel I. Diokno, Vice-Chairman of the Free Legal Assistance Group (FLAG), Efren C. Moncupa, member of FLAG's Executive Committee, Arno V. Sanidad, Deputy Secretary of

human rights lawyer, after they had reportedly received death threats from individuals connected to the Philippine National Police and loyal to the accused in the Kuratong Baleleng case (7 February 1997).

334. The second appeal was sent on behalf of Senator Paul Roco, Chairman of the Senate Committee on Human Rights and Social Justice, Justices Francis Garchitorena and José Balajadia of the Sandiganbayan (Anti-Corruption Court) after they had reportedly received death threats, the language of which strongly suggested that the authors might be members of the Philippine National Police (3 March 1997).

335. The Special Rapporteur also transmitted an urgent appeal on behalf of 140 indigenous families from the Suminao Clan in Kamagumayan, Impasugong, North Mindanao, who had reportedly been harassed and intimidated since November 1996 because of their claim to ancestral land. The Special Rapporteur was informed that Benjie Abao, referred to as the leader of the Suminao Higaonon Tribal Association, Undo Gulmba and Juvy Mepana died during an attack by members of the "blue guard" of the Baula family, the current local landlords, in cooperation with military and police who demolished their settlements. In this context, fears had been expressed for the life and physical integrity of the 140 families who were still facing the demolition of their settlements (13 August 1997).

Communications received

336. Following the Government's reply dated 1 November 1996, the Special Rapporteur was provided with further information on the procedure followed by the Philippine authorities in the investigation and prosecution of those responsible in the Kuratong Baleleng case. The Government emphasized that the responsible agencies have fully and expeditiously acted on the alleged extrajudicial executions involving Kuratong Baleleng gang members within the confines of the criminal justice system in the Philippines. The Government also states that the case is still sub judice (21 January 1997).

Follow-up

337. In his follow-up communication, the Special Rapporteur sought further clarification with regard to the Kuratong Baleleng case, after the source of the information brought once again to his attention that as a result of inaction of the government prosecutors, two years after the killing of 13 members of the Kuratong Baleleng gang none of the persons responsible had been brought to trial. The Special Rapporteur requested to be kept informed of further progress made in the case and of any disciplinary measures or administrative sanctions imposed on the accused.

338. With respect to the case of Gary Dalayhon, in response to which the Government had indicated that information could be obtained directly from the Philippine National Police, the Special Rapporteur requested the Government to summarize the available information by way of responding to the questions

Poland

Information received

339. The Special Rapporteur was informed that a new Penal Code abolishing the death penalty for all crimes will come into effect on 1 January 1998.

Romania

Information received and communications sent

340. The Special Rapporteur is concerned about cases of the misuse of firearms by law enforcement officials. Several persons were allegedly killed at the time of their arrest. The Special Rapporteur deplores the fact that some provisions of the Romanian Police Organization and Operation Act are not in keeping with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Article 19 (d) of Act No. 26/1994 thus authorizes a police officer to use force or a firearm "to arrest an offender caught in the act of committing a crime, trying to escape and not obeying orders to stop".

341. The Special Rapporteur drew the attention of the Romanian Government to the allegations he had received about violations of the right to life of the following persons:

(a) Marius Christian Palcu, shot in the back by two policemen on 2 May 1996;

(b) Mircea Muresul Mosor, aged 26, a member of the Rom community, allegedly killed by a policeman who was trying to arrest him on 9 May 1996 in Maruntei, a village in southern Romania;

(c) Nicolae Sebastian Balint, allegedly killed by police officers at Baile Herculane on 9 January 1995 when he was caught trying to steal a car.

Observations

342. The Special Rapporteur regrets that no reply from the Government had reached him at the time this report was finalized. He requests the Romanian authorities to have impartial and in-depth inquiries carried out in order to shed light on the situation and establish the facts and to ensure that any police officer suspected of having used firearms abusively is brought to justice. The Special Rapporteur also recommends that the Government should amend article 19 (d) of Act No. 26/1994 to bring it into line with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Russian Federation

Communications received

344. Regarding the case of Natalya Alyakina, a journalist reportedly killed on 17 June 1995 near Budennovsk, the Government informed the Special Rapporteur that the responsible member of the armed forces was prosecuted for contravention of the rules on the use of weapons which led to the victim's death, and was sentenced to two years' imprisonment subject to probation for a term of one year (25 November 1996).

345. In response to the case of Ashot Shakhnazarian, the Government reported that the Military Procurator's office closed the case on 15 July 1996 because of the absence of a corpus delicti. It was decided that the members of the armed forces, which were carrying out a military exercise under conditions of armed conflict, had made lawful use of their weapons. The members of the armed forces in the helicopter, having received information to the effect that members of the Chechen armed formations were moving about the area in Kamaz trucks, opened warning fire with light weapons with a view to halting the truck and checking to whom it belonged. When the truck continued even after further warning fire, the truck was fired upon in accordance with the instructions of superiors. The driver of the truck died as a result.

346. Regarding the seven unidentified individuals who were reportedly killed on 19 March 1996 in Samashki by Russian armed forces during a house search, the Government stated that no evidence was found of intentional killing.

347. The Government also informed the Special Rapporteur that it considered that the deaths of the 28 persons in Roshni Chu on 8 October 1995, the 267 unidentified persons in Gudermes between 14 and 24 December 1995 and the some 200 unidentified persons in Samashki between 14 and 20 March, reportedly resulting from indiscriminate and disproportionate attacks by Russian armed forces, were a tragic consequence of military operations (27 December 1996).

348. In response to the Special Rapporteur's follow-up communication of 1 September 1996, he was informed that, in order to verify the allegations concerning the events of 7-8 April 1995 in the village of Samashki, the Military Procurator's office of the Russian Federation had opened criminal proceedings on 27 April 1995. The Special Rapporteur was further informed that before undertaking concrete measures against settlements in Chechnya in cases where the use of force was envisaged, the federal forces always created humanitarian corridors to facilitate the civilian population's egress from the conflict zone. With regard to the case of Sergei Tamarov and one unidentified person killed on 23 March 1995 when their car was reportedly attacked by a Russian helicopter in the town of Tsotsin-Yurt, the Government noted that this incident was a tragic consequence of military operations.

349. In response to the Special Rapporteur's follow-up communication, the Government also provided statistics on the use of the death penalty. According to this information, in 1996, 86 persons were executed, all sentenced to death between 1989 and 1994. In January 1996, 14 persons were executed, in February 15, in March 6, in April 23, in May 17, in June 3, in July 7 and in August 1. The Special Rapporteur was further informed that the State Duma of the Federal

Observations

350. The Special Rapporteur wishes to thank the Government for the replies it provided.

351. The Special Rapporteur is appalled at the deliberate killing of humanitarian workers in the Chechen Republic in December 1996. Moreover, he is distressed at allegations of public executions which allegedly took place in the Chechen Republic of the Russian Federation following the adoption of a new Criminal Code reintroducing Shari'a law into the judicial practice of the Chechen Republic. These executions are in contradiction to Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms which the Russian Federation signed, thereby committing itself to the abolition of the death penalty.

Rwanda

Information received and communications sent

352. The Special Rapporteur is concerned about the deterioration in the human rights situation in Rwanda since November 1996, when half a million Rwandan refugees in Zaire returned home. According to the information received, there have been many massacres of civilians, with about 6,000 deaths since the beginning of the year. The Special Rapporteur was also informed that the massacres were attributed variously to the Rwandan Patriotic Army (APR), the Interahamwe militia or ex-members of the predominantly Hutu former Rwandan armed forces. The regions most affected by the killings are those in the north-west, Ruhengéri and Gisenyi.

353. For an in-depth analysis of the human rights situation in Rwanda, the Special Rapporteur refers to the report (E/CN.4/1998/54/Add.1) submitted to the Commission on Human Rights by the Special Representative on Rwanda, Mr. Pierre Moussalli, and to the reports submitted by the Office of the United Nations High Commissioner for Human Rights in Rwanda to the General Assembly and the Commission on Human Rights.

354. In an urgent appeal sent on 23 January 1997, the Special Rapporteur said that he was concerned about the way in which some trials for genocide and crimes against humanity were being conducted. According to the information received, the provisions relating to a fair trial and the principles of the independence of the judiciary are not being respected, some accused do not have access to a lawyer and restrictions are being imposed on their ability to call and question witnesses. The urgent appeal was sent jointly with the Special Rapporteur on the situation of human rights in Rwanda, Mr. Degni-Ségui, the Special Rapporteur on questions relating to torture and the Special Rapporteur on the independence of judges and lawyers.

355. In conjunction with the Special Rapporteur on the situation of human rights in Rwanda, the Special Rapporteur transmitted a communication to the

Observations

356. The Special Rapporteur regrets that he has received no reply to the allegations transmitted. He urges the Government to prevent any excessive use of force and to conduct exhaustive and impartial investigations into these executions, to identify those responsible and to bring them to justice. He also requests it to guarantee the rights of the families of the victims to adequate compensation.

357. The Special Rapporteur welcomes the fact that the first trials of persons accused of having taken part in genocide and other crimes against humanity opened in Rwandan courts in December 1996 and in the International Criminal Tribunal in Arusha in January 1997. He nevertheless regrets that 61 death sentences have been handed down by Rwandan courts without full assurances of international guarantees of a fair trial. Although the recent establishment of a bar association in Rwanda is to be welcomed, there is deep concern about the fairness of the trials being conducted. The Special Rapporteur takes this opportunity to point out that the United Nations Human Rights Committee regards any sentence of death resulting from a trial which does not respect the minimum guarantees provided for by article 14 of the International Covenant on Civil and Political Rights as a violation of the right to life. The growing insecurity and the increase in fighting between the Rwandan army and armed groups once again raise the question of the prevention of massacres, the protection of the right to life of all members of the civilian population without distinction and the need to break the cycle of violence in the country once and for all.

Senegal

Communications received

358. The Government replied to the allegations that the Special Rapporteur transmitted to him in 1996 concerning the following persons:

(a) Youba Badji, political officer of the Casamance Democratic Forces Movement (MFDC), was reportedly arrested, tortured and killed on 24 January 1995 by soldiers in his village of Aniak. According to the Government, the results of the investigation showed that Y. Badji was known, because he had been arrested several times in connection with MFDC activities and finally joined the armed wing of the Movement and took refuge in the village of Djiégui near San Domingo in the Republic of Guinea-Bissau. He is said to have died as a result of an illness;

(b) Bakari Diedhiou died in Bouloum on 19 February 1995 following the torture to which he was subjected during his arrest by soldiers. The Government informed the Special Rapporteur that B. Diedhiou was allegedly involved in the murder of Bacary Sane, a rural adviser killed in Bouloum by members of the resistance. B. Diedhiou reportedly went underground for fear of reprisals by villagers. His death, which has not been confirmed, could

(c) Anice Sambou, former employee of a hotel in Ziguinchor, arrested and killed in Niaguis in April 1995 by soldiers who suspected her of connivance with the independence forces. According to the Government, Anice Sambou, known as Amy, is well known as a female supporter of MFDC. She went to live in Kandé, where she headed the women's branch of MFDC. She was arrested in 1992 and then amnestied and reportedly left Ziguinchor to take refuge in Gambia.

359. The Government informed the Special Rapporteur that, as far as these three cases were concerned, no arrest had been made of persons with these names (23 January 1997).

Observations

360. The Special Rapporteur is concerned about the escalation of violence in the Casamance region and the danger to the civilian population created by the increase in armed clashes and the laying of anti-personnel mines. He requests the authorities to carry out impartial and in-depth inquiries to shed light on all allegations of violations of the right to life committed in Casamance. The rights of the victims and their families to truth, justice and adequate compensation must be respected.

Singapore

Information received and communications sent

361. The Special Rapporteur transmitted one urgent appeal to the Government of Singapore on behalf of Lee Teck Yeong, who was reportedly sentenced to death on 25 October 1996 for trafficking in drugs and was expected soon to be executed. It was reported that Lee Teck Yeong decided not to appeal against his sentence (24 February 1997).

Communications received

362. In response to the urgent appeal sent on behalf of Lee Teck Yeong, the Government informed the Special Rapporteur that the procedure for lodging appeals, and particularly the time limit for filing of notices of appeal, are carefully explained to every prisoner by the prison authorities immediately upon admission to the prison. As a matter of practice, every prisoner who has been sentenced to death is asked by the prison authorities to file a notice of appeal. However, under Singapore law, persons who have filed appeals have the freedom to withdraw their appeals if they so wish. No person is forced to prosecute an appeal or to continue with an appeal against his will. The Special Rapporteur was also informed that Lee Teck Yeong had the benefit of legal advice at the time when he decided to discontinue his appeal (9 May 1997).

363. The Government also provided the Special Rapporteur with comments on paragraph 438 of his report to the fifty-third session of the Commission on Human Rights (E/CN.4/1997/60/Add.1), containing the Special Rapporteur's observations on Singapore. The Government of Singapore

considered by the international community as a "most serious crime", its effects in terms of human suffering and social costs on society as a whole being horrendous. Further, the Government stated that it was not factually correct to state that the Misuse of Drugs Act does not provide sufficient guarantees for the presumption of innocence for persons charged with trafficking in drugs. An inherent safeguard exists in section 17 of the Act, under which it must first be proved that the accused had in his possession a controlled drug in excess of the quantity specified under the section. It must also be shown that the accused knew the nature of the particular controlled drug. Only then does the presumption of trafficking arise, which can be rebutted by the accused if he can show that the drug in his possession was solely for his own consumption (27 June 1997).

Observations

364. The Special Rapporteur continues to be of the opinion that the presumption of trafficking in drugs in the Misuse of Drugs Act, resulting in a partial shifting of the burden of proof on the accused, does not provide sufficient guarantees for the presumption of innocence and may thus lead to violations of the right to a fair trial and therewith of the right to life, the crime of drug trafficking carrying a mandatory death sentence. The Special Rapporteur further shares the view of the Economic and Social Council, expressed in its resolution 1989/64 of 24 May 1989 entitled "Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty", that Member States should take steps to ensure mandatory appeals in all cases of death penalty.

Spain

Information received and communications sent

365. The Special Rapporteur transmitted complaints to the Government of Spain about violations of the right to life of Rosa Zarra Marín, who died in Donostia on 22 June 1995 after being hit in the stomach by a rubber bullet fired by an officer of Ertaintza (Autonomous Basque Police), and of Josu Zabala Salegi, whose body was found with a bullet hole in the chest on 27 March 1997 near the district of Itsaspe, Itziar, Guipúzcoa.

Information received

366. With regard to the death of Josu Zabala, the Government reported that the investigation was carried out by Eibar Criminal Investigation Court No. 1. The proceedings conducted and the autopsy report contain no indication that the case is one of murder and no information from the exhaustive investigation carried out points to anything but suicide (22 October 1997).

367. As to the death of Rosa Zarra Marín, the Special Rapporteur was informed that the criminal proceedings were dismissed after it was determined by the court that there was no connection between the rubber bullet wound and the

Sri Lanka

368. The Special Rapporteur undertook a visit to Sri Lanka from 25 August to 5 September 1997 to examine in situ the situation of the right to life. His findings, conclusions and recommendations with regard to the visit can be found in the second addendum to his report to the Commission on Human Rights (E/CN.4/1998/68/Add.2). Communications between the Special Rapporteur and the Government concerning the visit are also reflected in this document.

Information received and communications sent

369. During the period under review, the Special Rapporteur transmitted allegations regarding violations of the right to life of the following persons:

(a) Krishanthy Kumaraswamy, Rasammah Kumaraswamy, Prenaban Kumaraswamy, aged 16, and Kirupaharan Sithamparan, allegedly killed by members of the armed forces in Jaffna. According to the information received, Krishanthy Kumaraswamy was taken into custody on 7 September 1996, gang-raped and then killed. Her mother, her brother and a friend of the family reportedly disappeared the same day when they went to search for her. Their bodies were reported to have been discovered in shallow graves approximately 1½ months later;

(b) Suppiah Rasendiram and Arumugam Subramaniam, reportedly killed on 23 February 1996 in Kanniya, Trincomalee, by members of the armed forces who had stopped them together with two colleagues when the four of them were on their way home from work;

(c) An employee of the Jaffna Teaching Hospital and an employee of the Jaffna Municipal Council, reportedly shot and killed on 1 October 1996 by members of the armed forces at the army checkpoint at Thattatheru in Jaffna town;

(d) Naresh Rajadurai, reportedly taken into custody by members of the Special Task Force of Sri Lanka in Colombo on 26 June 1996. His body was reported to have been found some weeks later;

(e) A young Tamil woman, who reportedly died as a result of injuries sustained when she was raped and tortured by members of the armed forces on 30 July 1996 in Madduvil, Jaffna;

(f) A father and his daughter, reportedly stabbed to death by members of the armed forces on 7 August 1996 in Kalvayal, Thenmarachy. It was also alleged that the daughter was gang-raped before she was killed;

(g) A student, reportedly gang-raped and stabbed to death on 15 August 1996 by members of the armed forces in Madduvil.

Swaziland

Information received and communications sent

370. The Special Rapporteur transmitted an urgent appeal on behalf of officials of the Swaziland Federation of Trade Unions (SFTU) and other trade union activists, after he had been informed that on 3 February 1997, in the context of a trade union-led national strike which began that day, at least 23 executive and ordinary members of the SFTU had been severely assaulted by police and military officers when they were leaving a trade union meeting. In the light of this incident and an alleged announcement by the Prime Minister that he had ordered the police to "shoot to kill" to maintain law and order during the strike, fears had been expressed for the right to life and physical integrity of SFTU officials and other trade union activists (7 February 1997).

Tajikistan

Observations

371. The Special Rapporteur reiterates his interest in conducting a visit to Tajikistan and regrets that no response was received in this regard despite several requests made in 1994 and 1996.

Thailand

Information received and communications sent

372. The Special Rapporteur transmitted to the Government of Thailand allegations regarding the violation of the right to life of the following persons:

(a) Reportedly killed by members of the armed forces of Myanmar in attacks on refugee camps in Thailand: Ei Pyin, Ai Pon and U Baw Ga, in or as a result of the attack on Karenni refugee camp No. 2 on 3 January 1997;

(b) Reportedly killed by members of the Democratic Karen Buddhist Army (DKBA), a Karen militia group alleged to be backed by the State Law and Order Restoration Council (SLORC), in attacks on refugee camps in Thailand: one unidentified person, reportedly a Thai trader, during the attack on Don Pa Kiang refugee camp on 28 January 1997; one unidentified person in the attack on Hway Kaloke refugee camp on 28 January 1997; Naw Eh G'Lu Pi alias Maw Ywek Mo, during the attack on Mae La (Beh Klaw) refugee camp on 29 January 1997.

Information received

373. In response to the allegations transmitted to the Government of Thailand during 1997, the Government stated that the attacks which caused the deaths under question were carried out by Myanmar troops belonging to the SLORC and the DKBA. The Special Rapporteur

those seeking refuge on Thai territory, the reinforcement of forces protecting vulnerable areas near the border, the relocation of displaced person campsites deeper inside Thai territory and the deployment of reconnaissance units to patrol the areas surrounding the campsites (3 September 1997).

374. The Government also provided a reply to two cases transmitted during 1996. In response to the case of Thong-In Kaewwattha, the Government indicated that two suspects were being held in police custody and that the case had been forwarded to the Public Prosecutor's Office for criminal prosecution. It was also stated that it was believed that the murder of Thong-In Kaewwattha was connected with the conflict between him and the supporters of the Waste Treatment Plant planned to be located in the district, and that evidence was being gathered so as to enable the arrest of the persons believed to be behind the murder.

375. In regard to the case of Jun Boonkhunthod, the Government informed the Special Rapporteur that he had been killed when he tried to escape in the course of a police operation searching persons involved in cultivating marijuana. The Special Rapporteur was also informed that since a complaint was lodged that this action was excessive and that the subject in fact did not resist arrest, the responsible police officer was placed in custody and charged with wrongful killing. Furthermore, it was brought to the Special Rapporteur's attention that Jun Boonkhunthod was an ordinary member, and not a leader, of the pressure group "Forum of the Poor" (18 March 1997).

Observations

376. The Special Rapporteur wishes to thank the Government of Thailand for the replies provided.

Togo

Information received and communications sent

377. The Special Rapporteur communicated allegations to the Government of Togo concerning the deaths of two persons identified as Mr. Azote, gendarmerie captain, who was reportedly shot in the back on 27 January 1996 by several bullets fired by members of the Togolese armed forces; and Mr. Thomas Rupprecht, Counsellor of the German Embassy in Togo, who was shot by soldiers at a checkpoint on 27 March 1996 when he refused, as a diplomat, to allow his car to be searched.

Observations

378. The Special Rapporteur regrets that no reply from the Government had reached him at the time of the writing. He is concerned about the allegations of summary executions that continue to be made against soldiers and about the impunity they enjoy.

Tunisia

Information received and communications sent

379. The Special Rapporteur has received information that violations of human rights, including violations of the right to life, continue to take place in Tunisia.

380. The Special Rapporteur has transmitted an allegation to the Tunisian authorities that Sheik Mabrouk Zran, a journalist and member of the An-Nahda Movement, who was arrested in 1990, died in prison on 5 May 1997. He was reportedly seriously ill and did not receive proper medical care.

Turkey

Information received and communications sent

381. It was brought to the Special Rapporteur's attention that, in the context of the conflict between the Turkish authorities and the PKK, extrajudicial, summary or arbitrary executions continued to occur. According to the reports received, women and children have not been spared by either side in the conflict. Since the conflict started, thousands of villages are said to have been destroyed and over 2 million persons displaced. Methods used to empty villages have reportedly included killings, disappearances, sexual violence, devastation of fields and destruction of food stocks. During the first four months of 1996, 69 villages in the province of Sivas and some 100 in the province of Erzrum were reported to have been evacuated.

382. The Special Rapporteur equally received information concerning human rights abuses, including killings, committed by members of the PKK and other armed opposition groups, such as the Turkish Revolutionary Communist Party and the Turkish Liberation Army of Peasants and Workers.

383. The Special Rapporteur was further informed that in October 1997, the state of emergency was lifted in Bingol, Bitlis and Batman provinces.

384. In addition, it was brought to the Special Rapporteur's attention that on 6 March 1997, the Turkish Parliament adopted a law reducing the detention period for "security detainees", that is persons held for offences falling under the 1991 Anti-Terror Law and/or under the jurisdiction of State security courts. Detention periods for security detainees involved in collective crimes, i.e. those committed by three or more persons, were reduced from 30 to 10 days in areas under the state of emergency and from 15 to 7 days elsewhere. Moreover, the maximum detention period for collective criminal offences not under the jurisdiction of State security courts was reduced from 8 to 7 days under this law. The law further provides that detainees have a right to legal counsel after four days of detention.

385. The Special Rapporteur transmitted two urgent appeals to the Government on behalf of persons who had allegedly received death threats. The first urgent appeal was sent on behalf of Abdurrahman Müstak, headman of Yesilyurt village, who filed a petition with the European Commission of Human Rights for the ill-treatment inflicted by Turkish security forces on villagers in 1989.

The appeal was also sent on behalf of the villagers who acted as plaintiffs and witnesses in the case. According to the information brought to the Special Rapporteur's attention, acts of harassment and intimidation were committed against them by village guards. In this context it was also brought to the Special Rapporteur's attention that in March 1994 the villagers were awarded compensation to be paid by the Government after a friendly settlement was reached with the Turkish authorities (14 January 1998). An urgent appeal was also sent on behalf of Halil Cabir Karacadagli, President of the Diyarbakir Branch No. 2 of the Tes-Is, the Turkish Union of Energy, Water and Gas Workers, after he had received death threats on 3 April 1997. According to the information received, he was arrested on 9 November 1996 by members of the police, who attempted to intimidate him into acting as a police informer, but in December 1996 he was reported to be released at the first hearing before the Diyarbakir State Security Court. Following his release he allegedly began to receive death threats (28 April 1997).

386. Moreover, the Special Rapporteur sent an urgent appeal on behalf of Jamshid Hashemi, an Iranian asylum seeker who was reportedly to be returned to Iran on 3 or 4 February 1997 because he had failed to register as an asylum seeker within five days of arrival. Fears had been expressed that if he were returned to Iran, he would be at grave risk of extrajudicial, summary or arbitrary execution in view of the fact that several members of his family were reportedly executed in Iran and he was reported to be sought by the authorities for distributing pamphlets produced by the organization Iranian People's Fedayan. The Special Rapporteur requested the Government of Turkey to refrain from expelling him (3 February 1997).

387. In addition, the Special Rapporteur transmitted allegations regarding the violation of the right to life of 23 persons. The following persons were:

(a) Reportedly killed while in custody: Mahmut Onerardi, whose mutilated body was reportedly found on 23 December 1996 near Adiyaman after he had been taken into custody for questioning by three police officers in Lice on 8 December 1996; Atilla Korkmaz, whose mutilated body was reportedly found on 23 December 1996 near Adiyaman, after he had been taken into custody on 9 December 1996 in Diyarbakir; Tevkif Kusum, whose body was reportedly found on 9 January 1997 near Adiyaman after he had been taken into custody on 24 November 1996 in Diyarbakir; Eyup Karabay and Mahir Karabay, whose bodies were reportedly found near the village of Narli in Cukurca after they had been detained on 25 December 1995 by individuals believed to be police officials; Ridvan Karakoc, whose body was reportedly found on 26 March 1995 after he had been arrested by members of the Anti-Terror Team on 15 February 1995; Tahir Ozer and Ali Cetinkaya whose bodies were reportedly found near Malabo village, Baykan, one week after they were reportedly detained by police officers in Siirt on 2 May 1996;

(b) Reportedly killed by the police: Cetin Karaloyun, aged 14, reportedly shot in the head on 9 January 1996 at the Nagazalar police station in Mersin; Irfan Agdas, aged 17, reportedly shot and killed on 13 May 1996 in Istanbul by members of the police when he was distributing a political magazine and tried to escape arrest; Dilan Bayram, aged 2, Berivan Bayram, aged 6, and their father Omer Bayram, reportedly killed during a raid on their house on 8 August 1996 in Adana; Hanifi Gurcan, whose body was reportedly

found on 14 January 1996 on the road to Nusaybin close to the Ucyol gendarmerie post, after he had allegedly been threatened by the police not to go to Nusaybin and who disappeared on 9 January 1997 after having left for that town;

(c) Reportedly killed by members of the armed forces: Yavuz Gulden, whose body was reportedly found between Kulp and Lice after he had been abducted on 2 May 1996; Abdullah Canan, whose mutilated body was reportedly found on 21 February 1996 on the Esendere road and who had allegedly been abducted on 17 January 1996 between Yuksekova and Hakkari by members of the armed forces belonging to the Yuksekova Mountain Commando team;

(d) Reportedly killed by village guards: Ahmet Atug, Sukru Demir, Abdulkadir Demir, Husnu Dilmen and Hetti Algan (female), reportedly killed in May 1995 by village guards when they were on their way back to Budalki after having been briefly detained by members of the armed forces. According to the information received, in April 1995, following the killing of a son of a village guard leader in Midyat by PKK members, village guards burned down several houses in Budakli and threatened to kill the villagers unless they became village guards;

(e) Reportedly killed by members of the Special Operations Team: Mehmet Nezir Akinci, reportedly shot dead on 24 August 1995 in Budakli; Osman Acar, reportedly killed on 31 August 1995 at a checkpoint near Budakli.

Communications received

388. The Government provided the Special Rapporteur with replies to allegations transmitted during 1996 as well as to urgent appeals and allegations transmitted during 1997.

389. In response to allegations transmitted during 1996, the Special Rapporteur was informed of the following. With regard to the case of Mustafa Dolek, the Special Rapporteur was informed that the case was sub judice and that he had died as a result of a wound caused by a gun which exploded during a struggle between him and a police officer. With regard to the cases of Abdullah Ilhan, Neytullah Ilhan, Halim Kaya, Ahmet Kaya, Ramazan Nas, Ali Nas, Besir Nas and four unidentified persons, the Government reported that they had died in an attack by members of the PKK on the minibus in which they were travelling and that the case was sub judice. The victims of this attack were stated to be Abdullah Ilhan, Neytullah Ilhan, Halit Kaya, Ahmet Kaya, Ramazan Oruc, Ali Nas, Besir Nas, Abdulhalim Yilmaz, Hamit Yilmaz, Mehmet Oner and Lokman Ozdemir (27 November 1996). The Special Rapporteur was also informed of compensation provided to the families of Yilmaz, Ozdemir, Nas and Oner (17 January 1997). Regarding Selahattin Ekin, Haci Yusuf Daloglu, Kadriye Osay and one unidentified person, the Special Rapporteur was informed that they had died in clashes with the police during an operation conducted against the PKK. In response to the case of Mehmet Senyigit, the Government stated that he had died in a clash with the police (28 November 1996). With regard to the case of Seyhmus Yavus, the Special Rapporteur was informed that no information was found on this incident and that no village named Kuslukbagi exists in Sirnak province (24 January 1997).

390. In response to allegations transmitted during 1997, the Government informed the Special Rapporteur of the following. The cases of Abdullah Canan, Atilla Korkmaz, Ridnan Karakoc and Mehmet Nezir Akinci were stated to be under investigation. In response to the case of Cetin Karakoyun, the Special Rapporteur was informed that the case was sub judice but that it was established that the victim died as a result of a gun of a police officer going off accidently. With regard to Irfan Agdas, the Government stated that he was armed and carried documents of the Revolutionary People's Liberation Party/Front and was killed when he disregarded warnings by three pursuing police officers. In response to the cases of Dilan Bayran, Berivan Bayram and Omer Bayram, the Special Rapporteur was informed that a clash took place between persons in the Bayram house and police officers who were planning to search the house and that the clash was stopped by an explosion in the house after which the three persons were found dead. Regarding the case of Tevfik Kusun, the Government stated that the victim had no record with the police. In response to the allegation regarding the violation of the right to life of Hetti Algan, Ahmet Atug, Sukru Demir, Abdulkadir Demir and Husnu Dilmen, the Government reported that according to the investigation conducted, Hetti Algan and Husnu Dilmen were living in Izmir and Ahmet Atug moved to Nusaybin. Regarding the case of Osman Acar, the Government reported that Osman Acar was killed by members of the PKK and that the case was referred to the Diyarbakir State Security Court (26 August 1997).

391. In response to urgent appeals transmitted during 1997, the Special Rapporteur was informed of the following. With regard to the urgent appeal sent on behalf of Jamshid Hashemi, the Government informed the Special Rapporteur that he was granted refugee status in Spain and that he was allowed to stay in Istanbul for a period of two months to complete the necessary procedures (27 February 1997). In response to the urgent appeal sent on behalf of Abdurrahman Mustak and other villagers of Yesilyurt, the Special Rapporteur received background information on a conflict between Abdurrahman Mustak and Abdullah Madak over the sharing of the compensation money paid in relation to a decision of the European Commission on Human Rights.

Follow-up on request for visit

392. The Special Rapporteur reminded the Government that no progress had been made with regard to a visit to the country requested in 1992 to allow him to better evaluate the allegations received (30 May 1997).

Observations

393. The Special Rapporteur wishes to thank the Government for the replies provided. As the majority of those who died in custody during the past years were reported to be security detainees, the Special Rapporteur welcomes the reduction of detention periods and the improved right to legal counsel for those detainees. The Special Rapporteur also considers the lifting of the state of emergency in Bingol, Bitlis and Batman provinces to be a positive development in view of the fact that links were said to exist between the existence of a state of emergency and persistent impunity in those areas.

394. At the same time, however, he remains concerned about the violations of the right to life committed against civilians in the context of the conflict between the Turkish authorities and the PKK. While recognizing that human rights abuses including killings of civilians are also committed by members of the PKK, the Special Rapporteur reiterates that the right to life is absolute and should be respected even in exceptional circumstances.

395. The Special Rapporteur reiterates his wish to visit Turkey and notes with regret that this year again no progress was made in this regard.

Turkmenistan

Information received and communications sent

396. The Special Rapporteur transmitted an urgent appeal to the Government of Turkmenistan on behalf of Gulgeldy Annaniyazov, who was reportedly imprisoned after an anti-government demonstration on 12 July 1995. Fears for his life had been expressed as he was reportedly detained at the maximum security prison in Ashgabat alongside violent criminals, who had allegedly been incited by the authorities to harm him (24 February 1997).

397. The Special Rapporteur also transmitted an urgent appeal on behalf of Akhmed Sarygulov, Yagshimurad and Armen Nersisyan, who were reportedly sentenced to death on or around 18 March 1997 by the Supreme Court, acting in this case as a court of first instance, and who therefore had no right to appeal to a higher independent body of justice (7 April 1997).

398. Last, an urgent appeal was sent on behalf of Ashirgeldy Sadyyev, who was reportedly sentenced to death for drug trafficking on 21 May 1997 by the Ashgabat City Court. According to the information received, the charge against him was fabricated allegedly because of his continuing contact with a government opponent (6 June 1997).

Ukraine

Information received and communications sent

399. The Special Rapporteur was informed that on 28 August 1997 the Ukrainian Ministry of Justice reportedly confirmed that 13 executions had taken place in Ukraine during the first eight months of 1997. One execution reportedly took place after 5 May 1997, when Ukraine signed Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. It had also been brought to the Special Rapporteur's attention that during the same period, 73 persons had been sentenced to death.

400. The Special Rapporteur transmitted two urgent appeals to the Government of Ukraine relating to the imposition of the death penalty on persons who had allegedly been tortured or ill-treated so as to obtain a confession of guilt. In these communications the Special Rapporteur also reminded the Government that upon joining the Council of Europe on 9 November 1995 and signing Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, it committed itself to impose an immediate

moratorium on executions and to abolish the death penalty. The first urgent appeal was sent on behalf of Mykola Khokhlich and Aleksey Gaga (14 July 1997), the second on behalf of Sergey Romanov (25 September 1997).

Communications received

401. With regard to the urgent appeal sent on behalf of Mykola Khokhlich and Aleksey Gaga, the Government informed the Special Rapporteur that the men's guilt was proven and corroborated by witnesses' statements, experts' conclusions, material evidence and other material in the case file. The Government also indicated that references at the appeal stage to infringement of Khokhlich's right to defence and to him having given erroneous testimony during the preliminary examination were groundless as they were disapproved by the evidence studied by the court. Lastly, the Government stated that the exceptional penalty of death was imposed on them in accordance with the requirements of the law (15 September 1997).

Observations

402. The Special Rapporteur thanks the Government for the reply provided but regrets that it does not address the main issue of concern, that is any steps taken by the Government to impose a moratorium on executions and to abolish the death penalty, a commitment undertaken by joining the Council of Europe and signing Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

United Arab Emirates

Information received and communications sent

403. The Special Rapporteur transmitted an urgent appeal on behalf of Dananjayan Rajankshan, Mulan Kanomal Dayo Anandan and Syam Sunder Saleesha Amin, Indian nationals who were reportedly sentenced to death on 30 December 1996 and whose appeals were rejected on 5 July 1997, despite the fact that "blood money" was paid to the families of the deceased who subsequently waived the punishment against them (16 July 1997).

United Kingdom of Great Britain and Northern Ireland

Follow-up

404. The Special Rapporteur transmitted a follow-up communication to the Government concerning several cases to which the Government had replied during 1996.

405. Regarding the case of Shiji Lapite, the Special Rapporteur requested to be informed of the Police Complaints Authority's reasons for not bringing disciplinary charges against the officers involved in his death. The Special Rapporteur also expressed his concern that despite the fact that Shiji Lapite was unlawfully killed, no one was reportedly brought to justice or disciplined for this crime.

406. With regard to the cases of John O'Reilly, Dennis Stevens, Kenneth Severin, Alton Manning, Richard O'Brien, Wayne Douglas, Leon Patterson, Dermott McShane, Pearce Jordan and Patrick Funicane, the Special Rapporteur requested the Government to inform him of any further developments in their respect, as the Government had informed him that these cases were either being investigated or were sub judice.

407. The Special Rapporteur also sought further clarification with regard to the inquest procedure in the United Kingdom and, in particular, the differences in this procedure between England and Wales on the one hand and Northern Ireland on the other. The Special Rapporteur asked what the verdict of "unlawful killing" was in England and Wales, and what was the function of an inquest if not to express opinions on matters of civil and criminal liability. Further, he posed the question why the differences between the inquest procedure in England and Wales on the one hand and Northern Ireland on the other were considered to be of a procedural nature. Lastly, he requested to be informed of the reasons for maintaining differences between the two procedures.

408. With regard to the cases of Mairead Farrell, Daniel McCann and Sean Savage, three members of the Irish Republican Army who were shot dead by members of the British armed forces in Gibraltar in March 1988 and whose cases were transmitted to the Government by the Special Rapporteur in 1988, information was requested on the steps taken by the Government of the United Kingdom in the light of a 1995 judgement by the European Court of Human Rights on this case.

United Republic of Tanzania

Information received and communications sent

409. During the period under review, the Special Rapporteur transmitted two urgent appeals to the Government. The first urgent appeal was sent on behalf of Burundi refugees in Tanzania. Fears for their life had been expressed if they were to be repatriated in the light of the following reports. According to the information received, 48 refugees, reportedly forcibly returned to Burundi on 5 January 1997, were arrested upon their arrival in Burundi and extrajudicially executed the following day. Subsequently, on 10 January 1997, 126 Burundi refugees were reportedly forcibly returned from Tanzania to Burundi and 122 of them were allegedly shot and killed the same day by members of the Burundi armed forces (5 February 1997).

410. The Special Rapporteur also sent an urgent appeal on behalf of some 100 Zairian nationals when fears were expressed that their life and physical integrity might be at risk if they were to be returned to Zaire. Some of them were reported to be prominent members of President Mobutu's political party, including Sanganira Lugi and Katembo Amri, others were reportedly known as political opponents or critics of the Alliance of Democratic Forces for the Liberation of Congo (AFDL). The Special Rapporteur had been informed that these Zairian nationals were being held by the immigration service in the town of Kigoma in Tanzania and that they had been instructed by the authorities to leave Tanzania by 14 May 1997 and to return to Zaire (16 May 1997).

411. In both urgent appeals, the Special Rapporteur requested the Government to refrain from returning these persons and to provide him with information concerning the allegations and the decision taken in that matter.

Communications received

412. In response to the urgent appeal sent on behalf of the some 100 Zairians held by the immigration department in the town of Kigoma, the Special Rapporteur was informed that no Zairians had been repatriated until then, that some 4,000 Zairians, believed to be mostly members of militias, had voluntarily requested to be repatriated, and that arrangements were being made to hold consultations on this matter between UNHCR and the Governments of Tanzania and the former Zaire (26 May 1997).

United States of America

413. The Special Rapporteur visited the United States of America from 21 September to 8 October 1997 to examine in situ the situation of the right to life, in particular in connection with the death penalty and the use of force by law enforcement officials. The Special Rapporteur's findings, conclusions and recommendations with regard to his visit can be found in the third addendum to his report to the Commission on Human Rights (E/CN.4/1998/68/Add.3). Also reflected in this document are all communications between the Special Rapporteur and the Government relating to the visit.

Information received and communications sent

414. The Special Rapporteur sent 11 urgent appeals concerning death sentences imposed in the following states: Arizona (1), Georgia (1), Mississippi (1), Missouri (3), Oregon (1), Texas (2) and Virginia (2). The urgent appeals were sent on behalf of the following persons:

(a) Sentenced to death after a trial alleged to fall short of international fair trial standards, including the lack of adequate defence: Ellis Wayne Felker (13 November 1996), Richard Zeitvogel (10 December 1996), Joseph O'Dell (31 December 1996), Roosevelt Pollard (24 February 1997), Joseph Stanley Faulder (30 May 1997), Mario Benjamin Murphy (14 August 1997), Alan Jeffrey Bannister (3 October 1997) and Kenneth Ransom (16 October 1997);

(b) Sentenced to death without resort to the right to lodge a legal or clemency appeal: Harry Moore (7 May 1997);

(c) Sentenced to death, despite mental retardation: Ramon Martinez-Villareal (7 May 1997);

(d) Sentenced to death, despite being under 18 years of age at the time of the commission of the crime: Azikiwe Kambule (5 June 1997).

415. The Special Rapporteur is aware that the following seven persons on whose behalf he appealed between 2 November 1996 and 31 October 1997 were

subsequently executed: Ellis Wayne Felker, Richard Zeitvogel, Harry Moore, Joseph O'Dell, Mario Benjamin Murphy, Alan Jeffrey Bannister and Kenneth Ransom.

Communications received

416. The Government provided a reply in the form of a description of legal safeguards provided to defendants in the United States in criminal cases, and in particular those specific to capital cases, in response to the following urgent appeals transmitted by the Special Rapporteur: Ellis Wayne Felker (20 November 1996), Richard Zeitvogel (10 December 1996), Roosevelt Pollard (26 February 1997), Harry Moore and Ramon Martinez-Villareal (13 May 1997), Joseph Stanley Faulder (4 June 1997), Mario Benjamin Murphy (19 August 1997), Alan Jeffrey Bannister (8 October 1997) and Kenneth Ransom (20 October 1997).

417. In addition, the Government provided further information on the following cases:

(a) Joseph O'Dell. The Special Rapporteur was informed that his execution was stayed by the Supreme Court on 17 December and that on 19 December the Court agreed to review his case. It was explained that his stay of execution was not related to his claim of innocence, which had been rejected by all 14 judges who reviewed his case, and that DNA testing had, in fact, shown a match between the victim's blood and a blood stain found on O'Dell's jacket (18 December 1996 and 17 January 1997);

(b) Ramon Martinez-Villareal. The Government provided a summary of the proceedings and subsequently informed the Special Rapporteur that his execution had been indefinitely postponed pending a hearing by the US Ninth Circuit Court of Appeals on his petition that he is incompetent to be executed (20 and 23 May 1997);

(c) Harry Moore. The Special Rapporteur was informed that he was executed as scheduled on 16 May 1997, that his conviction had been subject to automatic appeal to the Supreme Court of Oregon and that his execution was not scheduled until that appeal had been concluded. In addition, the Special Rapporteur was informed that he had had the right to seek executive commutation of his death sentence to life imprisonment or an executive pardon (21 May 1997 and 12 June 1997);

(d) Alan Jeffrey Bannister. The Special Rapporteur was informed of the proceedings and of his execution as scheduled on 22 October 1997 (28 October 1997);

(e) Azikiwe Kambule. The Special Rapporteur was informed that he was no longer facing the possibility of a death sentence as on 16 June 1997 he had been sentenced to 35 years in prison for carjacking and accessory after the fact to murder (19 June 1997);

(f) Mario Benjamin Murphy. The Special Rapporteur was informed that he was executed as scheduled on 17 September 1997. It was further emphasized that, even though the Federal District Court Judge and the Federal Appeals Court found that Murphy's claim with respect to the Vienna Convention on

Consular Relations was barred by his failure ever to have raised the claim in state court, both of the federal courts concluded that Mario Benjamin Murphy had not been prejudiced by the alleged violation, as he had pleaded guilty to murder and was represented by competent, retained counsel throughout the trial proceedings (24 September 1997);

418. The Government of the United States of America also provided a reply to several cases transmitted during 1996. In response to the cases of Anthony Baez and Annibal Carrasquillo, the Government indicated that the cases were under investigation by the Department of Justice. With regard to the case of Aswon Watson, the Special Rapporteur was informed that the case was under investigation by the United States Attorney's Office in New York and the Civil Rights Division of the Department of Justice. The Special Rapporteur was further informed that concerning the case of Frankie Arzuega no information was available from the Department of Justice (18 November 1997).

Uruguay

419. The Government provided a copy of the file in the proceedings against the police officers charged in the case of Fernando Moroni (27 November 1996). In this connection, the Government attached a copy of the judgement in second instance which was handed down by an appeal court and confirms that three police officers were tried in connection with the incidents which caused the death of Fernando Moroni (17 July 1997).

Venezuela

Information received and communications sent

420. The Special Rapporteur was informed that, from November 1994 to October 1995, 274 persons died at the hands of State security bodies. It was also reported that, in many of these cases, police officers killed offenders and then claimed that clashes had taken place. The security bodies alleged to be the most involved in human rights violations are the State Police, the National Guard and the Metropolitan Police. It is noted that the State Police are apparently responsible for 33 per cent of deaths during the period under review.

421. The Special Rapporteur transmitted an urgent appeal to the Government requesting that the necessary measures should be taken to protect the right to life of Luis Jesús Bello, director of the Apostolic Vicariate's Human Rights Office in Puerto Ayacucho, Amazonas, who was threatened with death during an interview at a local radio station with the director of an industrial company in the area. The Vicariate reportedly launched a campaign on behalf of various Indian communities in the State of Amazonas, whose members were being evicted by industrial company officials acting with the acquiescence of the local authorities.

422. The Special Rapporteur also transmitted complaints to the Government about violations of the right to life of the following persons:

(a) Killed by members of the Metropolitan Police: Esteban Alexander Ugueto in La Pedrera, Carretera Vieja, Caracas-La Guaira, on 26 March 1995; José Monsalve Méndez, in Caracas on 10 June 1995; Richard Cordova, in Caracas on 25 April 1995; and Ramón Ernesto Parra and Irvin Leonardo Moreno, in Caracas on 4 May 1997;

(b) Killed by members of the Municipal Police: José Luis Pimentel Ramírez, who was killed in Caracas on 9 May 1995 by members of the Sucre Municipal Police;

(c) Killed by members of the Police (no indication of which branch): Richard López Plaz, who died at Maracay Medical Centre on 18 March 1995 as a result of shots fired by the police during an altercation; César Bellavilla, who died on 7 February 1995 in El Tigre, Anzoategui;

(d) Minors: Wilmara Velasquez, aged 13, died on 10 June 1995 in San Cristóbal, Tachira State, when members of the police tried to stop a family fight; José Luis Rodríguez Abreu, aged 16, killed on 3 February 1995 by members of the Metropolitan Police in Calle Estanque, Coche Parish.

423. The Special Rapporteur also transmitted complaints in connection with the death of Alexander Arias, who was killed in Caracas on 19 April 1995 by shots fired by a National Guard officer.

Communications received

424. The Government provided information on complaints transmitted in 1996 and 1997. It reported to the Special Rapporteur that the Office of the Attorney-General of the Republic had ordered Government Procurator's Office No. 39 to investigate the case of threats against Alexander José Pimentel and to take the necessary action to determine who was responsible (28 November 1996).

425. In connection with the incidents at La Planta Prison in which 27 prisoners died, the Government provided a list of the deceased. It reported that a fire had broken out in cellblocks Nos. 3 and 4; its causes have not yet been determined, but are being investigated. The case is being heard by Criminal Court of First Instance No. 16, Public Property Protection Court of First Instance No. 49 and Permanent Military Court of First Instance No. 3 in Caracas, since members of the National Guard appear to be involved. Three members of the National Guard and a warder have been the subject of judicial measures restricting their freedom because criminal liability appears to exist (2 December 1996).

426. With regard to the Colombian national, Jairo Gamboa, the Government reported that the Guasdalito Sectional Judicial Police's Technical Body had conducted investigations into the case and that attempts to locate witnesses had so far been unsuccessful (7 August 1997).

Observations

427. The Special Rapporteur thanks the Government for the replies transmitted. He is concerned about the increase in complaints of violations of the right to life received by his office. He urges the Government to investigate alleged violations of the right to life exhaustively and impartially, to identify the persons responsible for such violations and to bring them to justice.

Viet Nam

Information received and communications sent

428. The Special Rapporteur sent one urgent appeal on behalf of Pham Huy Phuoc, Le Minh Hai, Le Duc Canh and Tran Quang Vinh, reportedly sentenced to death for misappropriation of State funds and deliberate violation of state regulations for financial management, after the Supreme People's Court on 31 March 1997 turned down their appeals against the death sentences imposed on 31 January 1997 (7 April 1997).

Observations

429. The Special Rapporteur reminds the Government that article 6 of the International Covenant on Civil and Political Rights, ratified by Viet Nam, stipulates that the death penalty can only be imposed for the "most serious crimes". In addition, paragraph 1 of the Safeguards guaranteeing the protection of those facing the death penalty states that the scope of crimes subject to the death penalty should not go beyond intentional crimes with lethal or other extremely grave consequences. The Special Rapporteur concludes from this that the death penalty should be eliminated for economic crimes.

Yemen

Information received and communications sent

430. It was brought to the Special Rapporteur's attention that violations of the right to life continued to occur in Yemen. Impunity enjoyed by the perpetrators, particularly by the Political Security branch of the security forces, is reported to be one of the reasons. Some persons were reported to have been deliberately killed, others were reported to have been shot during protests and demonstrations during which security forces allegedly used excessive force.

431. The Special Rapporteur is aware that human rights abuses, including deliberate killings, have been committed by armed political groups, in some cases against civilians apparently on the basis of their political affiliation or religious beliefs.

432. In addition, the Special Rapporteur's attention was drawn to reports indicating a steady increase in the use of the death penalty since the establishment of the Republic of Yemen. Hundreds of people were reported to be on death row. Many of the offences punishable by death are reportedly

vaguely worded and could easily be misused to convict people engaging in activities which amount to no more than the peaceful expression of their conscientiously held beliefs or political dissent, such as the offences stipulated in articles 125 and 259 of the Penal Code. Article 125 reportedly provides for the death penalty for "anyone who committed an act with the intention of infringing upon the independence of the Republic or its unity or territorial integrity". Article 259 reportedly prescribes the death penalty for any Muslim who says or does anything contrary to Islam.

433. The Special Rapporteur transmitted an urgent appeal to the Government on behalf of Jalal Abdullah al-Rada'i and Abdullah Ali al-Rada'i, who were reportedly facing imminent execution after they had been sentenced to death by crucifixion on 11 August 1997 by the Court of First Instance in Al Mukallah. According to the information received, they had no legal assistance during the court sessions, a request for a lawyer reportedly having been refused as an attempt to delay the trial (2 September 1997).

434. The Special Rapporteur also transmitted the following two alleged cases of violations of the right to life:

(a) Ahmad Muhammad Naser, reportedly shot and killed on 17 February 1996 by members of the security forces during a demonstration in Aden held by hotel workers in protest against delays in payment of their wages;

(b) 'Ali al-Dahish 'Aylan, a member of the Nasserist Corrective Party, an opposition party, reportedly killed on 6 October 1996 in Sana'a. According to the information received, those responsible for his killing were driving a military vehicle and one of those responsible was alleged to be a member of the Republican Guard force.

Observations

435. The Special Rapporteur calls on the Government to investigate all alleged violations of the right to life, to bring their perpetrators to justice and to provide compensation to the victims' families. The Special Rapporteur also urges the Government to take all necessary steps to prevent future violations of the right to life.

II. OTHERS

Palestinian Authority

Information received and communications sent

436. It was brought to the Special Rapporteur's attention that in certain detention centres in Gaza and the West Bank, i.e. Jneid and Jericho, systematic torture and ill-treatment are alleged to be taking place. From July 1995 to December 1996 at least nine persons were believed to have died in the custody of the Palestinian security services as a result of torture. Burning with electric elements and cigarettes, suspension upside-down from a hook in the ceiling as well as repeated beating were said to have led to the death of several detainees. It was further reported that, despite the fact

that investigations were said to have been conducted in some of these cases, the findings and conclusions of the investigations were never published. Members of the Palestinian Preventive Security Service (PSS), the Naval police (bahriyya), as well as members of the intelligence service (mukhabarat) appear to have been involved in the reported cases of deaths in custody.

437. In addition, it was reported that in some cases, even when those responsible for the deaths had been brought to justice, information regarding the circumstances of the persons' deaths had not been made public. This is reported to have occurred in the cases of Mahmud Jumayel, who reportedly died in custody on 31 July 1996 in Jerusalem, and of 'Azzam Muslah, reportedly killed while in the custody of the PSS in Ramallah on 28 September 1996.

438. The Special Rapporteur sent urgent appeals on behalf of the following persons sentenced to death:

(a) Kheireddin al-Bheisi, Faras al-Bheisi and Mohammad al-Bheisi, reportedly sentenced on 6 March 1997, just 36 hours after their detention, in a single session, and without the right to appeal (14 March 1997);

(b) Major Fathi Freihat, Mahmoud Zayyid and Wael Ghanem, reportedly sentenced on 3 July 1997 two days after their detention. It was further reported that their appointed counsel did not appear in court to plead (8 July 1997);

(c) Fawzi Muhammad Mahmud Sawalha, reportedly sentenced on 12 August 1997. According to the information received, Fawzi Muhammad Mahmud Sawalha was tortured to extract a confession and his lawyers were intimidated by the authorities (27 August 1997).

439. The Special Rapporteur also sent allegations regarding violation of the right to life of the following persons:

(a) Who reportedly died in custody as a result of torture: Faiz Hana Kumsiveh on 17 January 1997 in Bethlehem; Muhammad 'Atwa 'Abd al-Majid al-'Amur on 21 June 1995 in the Gaza strip; Tawfiq Subaih al-Sawarkeh on 27 August 1995 in Gaza Central Prison; Yussef Ismail Al Baba on 1 February 1997 in Rafidiyye Hospital following his arrest the same day on criminal charges and his interrogation by officials of the Palestinian Military Intelligence; Khaled 'Isa al-Habal on 11 August 1996 in Ramallah;

(b) Who reportedly died in custody under other circumstances: Rashid Daoud Rashid al-Fetyani, reportedly killed by a guard in the district prison of Jericho on 3 December 1996, following an argument which led to a fight between them;

(c) Yusuf al-Sha'Rawi, who reportedly died on 26 May 1996 of a shot in the head while being interrogated by a policeman in Gaza;

(d) Riba Nidal Hindi, an 11-year-old girl, reportedly killed in Gaza during a shoot-out between rival members of the police and the PSS;

(e) Nahed Mujahed Dahlan, who reportedly died on 7 August 1996 in a hospital in Khan Yunis after he was found with signs of scars and bruising. It was reported that the week before his death he was every evening summoned for interrogation by members of the mukhabarat, who would let him go home every morning. It was also reported that the autopsy report, which was never made available to his family, concluded that he had committed suicide;

(f) Hanan Ahmad Mahmoud Qash'am (female), who was reportedly killed on 17 April 1997 when persons alleged to be members of the PSS reportedly fired without warning on a civilian car five kilometres from the village of Rammoun.

Communications received

440. In response to the urgent appeal sent by the Special Rapporteur on behalf of Fathi Freihat, Mahmoud Zayyid and Wael Ghanem, the Permanent Observer for Palestine to the United Nations reported that it was transferred to the competent authorities in the Palestinian Authority (10 July 1997).

Observations

441. The Special Rapporteur is concerned about the numerous reports received regarding the occurrence of deaths in custody, especially when resulting from torture. The Special Rapporteur urges the authorities to investigate all alleged violations of the right to life, to bring those responsible to justice and to provide compensation to the victims' families. The Special Rapporteur is further concerned about the use of the death penalty after trials alleged to fall short of international fair trial standards.

Taliban movement in Afghanistan

Information received and communications sent

442. The Special Rapporteur received several reports concerning the death penalty in the part of Afghanistan under the control of the Taliban movement. According to the information received, persons were sentenced to death by Islamic courts set up by the Taliban which are reportedly composed of judges many of whom are virtually untrained in law. It was reported that such courts often decide many cases a day in sessions which may take only a few minutes. Moreover, there are reportedly no provisions for defendants to be assisted by legal counsel, verdicts are final with no mechanism for appeal and, in practice, defendants are presumed guilty and have to prove their innocence. It was also alleged that testimonies and statements of convicts accepting their sentences before they were carried out, had frequently been extracted under torture.

443. It was further reported that death penalties were sometimes imposed and executed on orders of Taliban commanders or Taliban prison guards.

444. In this context, the Special Rapporteur, in a humanitarian spirit, transmitted a joint urgent appeal with the Special Rapporteur on the situation of human rights in Afghanistan and the Special Rapporteur on the question of torture on behalf of Ismail Khan, an opposition general and former governor of Afghanistan's western Herat province. Ismail Khan, who was reportedly in the

custody of the Taliban authorities and would be prosecuted by an Islamic court for his alleged killing of innocent people, was reported not to have access to a lawyer. Further, fears had been expressed that he might be at risk of ill-treatment, torture and extrajudicial, summary or arbitrary execution (2 June 1997).

445. In addition, the Special Rapporteur, in a humanitarian spirit, sent an allegation regarding the violation of the right to life of at least 30 male prisoners, all of them allegedly in their twenties. They were reportedly taken out of Herat prison and summarily executed on 15 July 1996. It was reported that a Taliban official had stated subsequently that those persons had not been executed but had been killed in an armed confrontation. However, the source reported that, after it had further investigated the case, it received confirmation that those killed had indeed been prisoners.

Turkish Cypriot community

Information received and communications sent

446. In a humanitarian spirit, the Special Rapporteur transmitted to the leader of the Turkish Cypriot community the alleged violation of the right to life of Petros Kakoulli. According to the information received, Petros Kakoulli was killed by two Turkish soldiers near the United Kingdom sovereign military base of Dhekelia while he was collecting snails. The Special Rapporteur was further informed that, according to an eye-witness, the soldiers shot him twice and then walked closer to kill him with a third shot. The victim was further reported to be of no danger to the soldiers.

Communications received

447. With regard to the case of Petros Kakoulli, the Special Rapporteur was informed that the incident should be seen in the context of the very high tension prevailing in the area. It was brought to the Special Rapporteur's attention that Petros Kakoulli was fired upon after he had crossed the Turkish Cypriot cease fire lines, when he refused to heed three verbal warnings to stop issued by a soldier on sentry duty in the area. It was also stated that the sentries had no way of knowing the intentions of the intruder. In addition, the Special Rapporteur was informed that a post mortem examination carried out in the presence of military and medical officers of the United Nations Peacekeeping Force in Cyprus revealed that the deceased had been hit by two bullets, one of which fatally wounded him, both shot from a distance of approximately 50 metres (16 September 1997).

448. The leader of the Turkish Cypriot community also provided replies to the cases transmitted during 1996. The Special Rapporteur was informed that Anastasios Isaac lost his life in a clash in which many casualties occurred. With regard to Solomos Solomou, it was brought to the Special Rapporteur's attention that it was observed that he fell down the mast which he was climbing to pull down the Turkish Cypriot flag when warning shots were fired in the air by members of the police of the Turkish Cypriot community. It was further brought to the Special Rapporteur's attention that on both occasions the persons who lost their lives were removed from the territory under its control and that thus the information requested by the Special Rapporteur was

not available, including death certificates, autopsy reports or complaints lodged. It was further stated that no reliable details regarding the causes of their deaths were available (10 December 1996).

Observations

449. The Special Rapporteur should like to note that the right to life is absolute and must be respected even under exceptional circumstances. Further, in a humanitarian spirit, the Special Rapporteur calls on the leader of the Turkish Cypriot community to ensure that investigations are carried out into allegations regarding violations of the right to life, that perpetrators are brought to justice and that steps are taken to prevent future violations of the right to life.

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